United States Court of Appeals

for the Second Circuit

APPENDIX

76-1317

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United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 76-1317

UNITED STATES OF AMERICA,
Appellee,

—v.—

GENE LOY CHU and KUO PING YU,
Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPELLANT CHU'S APPENDIX

VOLUME I—Pages A-I to A-788

UNITED STATES COURT OF APPEALS
FILED
AUG 27 1976
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

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U.S. ATTORNEY
AUG 27 1976
SO. DIST. OF N.Y.

PAGINATION AS IN ORIGINAL COPY

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Relevant Docket Entries Under Rule 30(a)

12-30-75	Filed indictment 75 Cr. 1263
1-12-76	Defendant (attorney present) pleads Not Guilty. Defendant ordered photographed and fingerprinted. Defendant to surrender passport. Defendant R.O.R. Case assigned to Judge Conner for all purposes. Bonsal, J.
2-13-76	Filed Notice of Motion for dismissal of count fourteen of the indictment.
2-13-76	Filed Memorandum in support of motion to dismiss count 14.
4-9-76	Filed Government's Memorandum in opposition to motion to dismiss count 14.
4-29-76	Filed indictment 76 Cr. 439. Case assigned to Judge Conner superseding 75 Cr. 1263.
5-3-76	Filed Defendant's requested voir dire to jury.
5-4-76	Attorneys and all defendants present . . . Indictment 75 Cr. 1263 application to Nolle Granted . . . Conner, J.
5-4-76	Defendant pleads Not Guilty . . . R.O.R. Jury trial begun.

5-11-76 Trial continued. Motion by counsel for Gene Loy Chu to dismiss counts 2, 7, 13 and 14 Granted. Motion to dismiss - overt acts of the conspiracy . . . Granted.

5-13-76 Trial continued. Jury deliberating.

5-14-76 Trial continued. Jury Deliberating.

5-17-76 Trial continued and concluded. Defendant Guilty on counts 1, 3, 4, 5, 6, 8, 9, 10, 11 and 12. Sentencing adjourned to 7-1-76 at 9:30 a.m. Continued R.O.R. Conner, J.

7-1-76 Filed Judgment (Attorneys Peter Fleming and John Sprizzo, present). The Defendant is sentenced to SIX (6) months on counts 1, 3, 4, 5, 6, 8, 9, 10, 11 and 12 to run concurrently with each other. Execution of Sentence is suspended. Defendant is placed on probation for a period of TWO (2) YEARS, subject to the standing probation order of this Court. Defendant is fined $10,000.00 on count 1; Defendant is fined $2,000.00 on each of counts 3, 4. 5 and 6; Defendant is fined $1,000.00 on each of counts 8, 9, 10, 11 and 12, for a total fine of $23,000.00. The committed fine is to be paid within thirty (30) days. SPECIAL

CONDITIONS OF PROBATION - Defendant should not represent or counsel any persons in any matter pending before Immigration & Naturalization Services during the period of probation. Conner, J. Entered on: 7-2-76.

7-6-76 Filed Defendant's Affidavit and Notice of Motion for an order for a new trial.

7-6-76 Filed Defendant's Memorandum in support of motion for a new trial.

7-8-76 Filed Notice of Appeal of Gene Loy Chu to USCA 2nd Cir. from judgment entered on: 7-1-76.

7-16-76 Filed transcript of record of proceedings dated July 1, 1976.

7-28-76 Filed notice that the original record on appeal has been certified and transmitted to the USCA.

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A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

-v-

GENE LOY CHU, JEAN FONG and KUO PING YU, a/k/a "Jimmy Yu,"

Defendants.

INDICTMENT

76 Cr.

----------x

The Grand Jury charges:

INTRODUCTION

1. The defendant GENE LOY CHU, at all times relevant to this indictment, was an attorney duly admitted to practice before the courts of the State of New York and before the United States Department of Justice Board of Immigration Appeals and Immigration and Naturalization Service ("Immigration and Naturalization Service").

2. The defendant GENE LOY CHU, at all times relevant to this indictment, was engaged in the practice of law, maintaining an office at 9 Division Street, New York, New York. A portion of the defendant GENE LOY CHU's practice consisted of representation of clients in matters pending before the Immigration and Naturalization Service.

3. Each and every allegation of this introduction is hereby repeated, realleged and incorporated by reference in Counts One through Fourteen, as though fully set forth therein.

COUNT ONE

The Grand Jury further charges:

4. From on or about January, 1973, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, GENE LOY CHU, JEAN FONG and KUO PING YU, a/k/a "Jimmy Yu," the defendants, and others to the Grand Jury known and unknown, combined, conspired, confederated and agreed together and with each other and with other persons to the Grand Jury known and

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unknown, to defraud the United States and to violate Sections 1001 and 1546 of Title 18, United States Code.

MEANS OF THE CONSPIRACY

5. Among the means whereby the defendants GENE LOY CHU, JEAN FONG and KUO PING YU, a/k/a "Jimmy Yu", and their co-conspirators would and did accomplish the object set forth in paragraph 4 of this indictment were the following:

(a) JEAN FONG and KUO PING YU, a/k/a "Jimmy Yu," the defendants, would solicit United States citizens willing to marry Chinese aliens for the purpose of obtaining for said aliens Immigrant Visas from the Immigration and Naturalization Service which would qualify said aliens for permanent residence in the United States;

(b) JEAN FONG and KUO PING YU, a/k/a "Jimmy Yu," the defendants, would introduce Chinese aliens and the United States citizens who had been recruited by said defendants to the defendant GENE LOY CHU for the purpose of arranging marriages and obtaining Immigrant Visas for said aliens;

(c) GENE LOY CHU, JEAN FONG and KUO PING YU, a/k/a "Jimmy Yu," the defendants, would enter into an arrangement with Chinese aliens and recruited United States citizens whereby the Chinese alien would pay a sum of money to the defendant GENE LOY CHU, at the time of the marriage between alien and citizen, of which approximately $1500 would be paid by the defendant GENE LOY CHU to the United States citizen for having married the alien. The arrangement would provide further that the alien would pay the United States citizen approximately $2,000 in monthly installments for having entered into the marriage;

(d) GENE LOY CHU, JEAN FONG, and KUO PING YU, a/k/a "Jimmy Yu," the defendants, would cause the alien and citizen to participate in a marriage ceremony;

(e) The defendant GENE LOY CHU would prepare and cause the United States citizen to sign a Form I-130, "Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa," ("I-130 Petition") which form, as the defendant GENE LOY CHU well knew, would contain false statements as to the residence and marital relationship of the alien and United States citizen whose marriage he had arranged;

(f) The defendant GENE LOY CHU would then file and cause to be filed with the Immigration and Naturalization Service on behalf of the alien and citizen, a Form I-130 Petition which contained false statements, as the defendant GENE LOY CHU then and there well knew; and,

(g) Prior to interviews at the Immigration and Naturalization Service of the alien and citizen concerning the truth of the information on the filed I-130 Petition, the defendant GENE LOY CHU would prepare the alien and citizen to give false answers concerning their marital relationship and residence, the purpose of said false answers, as the defendant GENE LOY CHU well knew, being to defraud the United States into believing that the alien and citizen had entered into a bona fide marital relationship, which the defendant GENE LOY CHU knew was not the case, said marriage having been contracted for the sole purpose of obtaining permanent residence for the Chinese alien.

OVERT ACTS OF THE CONSPIRACY

6. In furtherance of, said conspiracy, and to effect the objects there of, the defendants GENE LOY CHU, JEAN FONG and KUO PING YU, a/k/a "Jimmy Yu," committed the following overt acts, among others, in the Southern District of New York and elsewhere:

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The Rodriguez-Ho Marriage

(a) In or about April, 1973, defendant KUO PING YU, a/k/a "Jimmy Yu," spoke to Ana Rosa Rodriguez, a United States Citizen, about marrying a Chinese alien in return for a sum of money.

(b) On or about May 19, 1973, defendant KUO PING YU, a/k/a "Jimmy Yu," caused Ana Rosa Rodriguez to marry Ho Yuen Chen, a/k/a "William Ho," a Chinese alien.

(c) Prior to May 19, 1973, defendant GENE LOY CHU, caused Ana Rosa Rodriguez to sign a Form I-130 Petition, dated June 18, 1973, which contained false information concerning her relationship with Ho Yuen Chen, a/k/a "William Ho."

(d) On or about June 20, 1973, defendant GENE LOY CHU, filed and caused to be filed with the Immigration and Naturalization Service a Form I-130 Petition signed by Ana Rosa Rodriguez, which contained false information.

The Torres - Hu Marriage

(e) In or about May, 1973, defendant JEAN FONG, spoke to Francisca Torres about marrying a Chinese alien in return for a sum of money.

(f) In or about July, 1973 defendant JEAN FONG introduced Francisca Torres to defendant GENE LOY CHU.

(g) In or about July, 1973 the defendants GENE LOY CHU and JEAN FONG spoke with Francisca Torres about marrying Hu Tommy Gee Kwa, a Chinese alien, in return for approximately $3,500.00.

(h) On July 19, 1973, in the presence of the defendant JEAN FONG, Francisca Torres participated in a marriage ceremony with Hu Tommy Gee Kwa.

(i) On July 19, 1973 GENE LOY CHU, the defendant, gave Francisca Torres the sum of $1200.00.

(j) On or about July 19, 1973, GENE LOY CHU, the defendant, caused Francisca Torres to sign a Form I-130 Petition, dated July 23, 1973, which contained false information concerning her relationship with Hu Tommy Gee Kwa.

(k) On or about July 23, 1973, GENE LOY CHU, the defendant, filed and caused to be filed with the Immigration and Naturalization Service a Form I-130 Petition signed by Francisca Torres, which contained false information.

The Mildred Miranda-Fan Marriage

(l) In or about July, 1973, GENE LOY CHU, the defendant, spoke to Fan Wun Chiu about marrying a United States citizen for the purpose of Fan's obtaining permanent residence in the United States.

(m) In or about July, 1973, the defendant GENE LOY CHU spoke with Mildred Miranda about marrying a Chinese alien, in return for approximately $3,500.00.

(n) On August 6, 1973, Mildred Miranda participated in a marriage ceremony with Fan Wun Chiu.

(o) On August 6, 1973, the defendant, GENE LOY CHU gave Mildred Miranda the sum of $1500.00.

(p) On or about August 6, 1973, defendant GENE LOY CHU caused Mildred Miranda to sign a Form I-130 Petition, dated August 8, 1973, which contained false information concerning her relationship with Fan Wun Chiu.

(q) On or about August 8, 1973, defendant GENE LOY CHU filed and caused to be filed with the Immigration and Naturalization Service a Form I-130 Petition signed by Mildred Miranda which contained false information.

The Carmen Mira In-Jout Marriage

(r) In or about August, 1973, defendant JEAN FONG spoke to Carmen Miranda about marrying a Chinese alie. in return for a sum of money.

(s) In or about August, 1973, defendant JEAN FONG introduced Carmen Miranda to defendant GENE LOY CHU.

( ) In or about August, 1973 the defendants GENE LOY CHU and JEAN FONG spoke with Carmen Miranda about marrying a Chinese alien in return for approximately $3,500.00.

(u) On August 17, 1973, in the presence of the defendant JEAN FONG, Carmen Miranda participated in a marriage ceremony with Jout Jan Jong.

(v) On August 17, 1973 defendant GENE LOY CHU gave Carmen Miranda the sum of $1500.00.

(w) On or about August 17, 1973, defendant GENE LOY CHU caused Carmen Miranda to sign a Form I-130 Petition, dated August 20, 1973, which contained false information concerning her relationship with Jout Jan Jong.

(x) On or about August 20, 1973, defendant GENE LOY CHU, filed and caused to be filed with the Immigration and Naturalization Service a Form I-130 Petition signed by Carmen Miranda which contained false information.

The Hernandez-Chang Marriage

(y) In or about October, 1973, defendant KUO PING YU, a/k/a "Jimmy Yu," spoke to Elizabeth Hernandez about marrying a Chinese alien in return for approximately $3500.

(z) On November 8, 1973, in the presence of the defendant KUO PING YU, a/k/a "Jimmy Yu", Elizabeth Hernandez participated in a marriage ceremony with Chang Yung Kang.

(aa) On or about November 8, 1973, defendant GENE LOY CHU, caused Elizabeth Hernandez to sign a Form I-130 Petition, dated November 8, 1973, which contained false information concerning her relationship with Chang Yung Kang.

(bb) On or about November 6, 1973 defendant GENE LOY CHU, filed and caused to be filed with the Immigration and Naturalization Service a Form I-130 Petition signed by Elizabeth Hernandez which contained false information.

The Cruz-Young Marriage

(cc) In or about November, 1973 the defendant GENE LOY CHU spoke with Imgard Cruz about marrying a Chinese alien in return for approximately $3500.

(dd) On January 29, 1974, Imgard Cruz participated in a marriage ceremony with Young Yau Choy.

(ee) On or about January 29, 1974, defendant GENE LOY CHU, gave Imgard Cruz the sum of $1500.

(ff) On or about February 1, 1974, defendant GENE LOY CHU, caused Imgard Cruz to sign a Form I-130 Petition, dated February 1, 1974, which contained false information concerning her relationship with Young Yau Choy.

(gg) On or about February 4, 1974, defendant GENE LOY CHU filed and caused to be filed with the Immigration and Naturalization Service a Form I-130 Petition signed by Imgard Cruz, which contained false information.

STATUTORY ALLEGATIONS

7. It was further a part of said conspiracy that the defendants GENE LOY CHU, JEAN FONG and KUO PING YU, a/k/a "Jimmy Yu" would make, cause to be made, and aid, abet, counsel, command and procure to be made false and fraudulent statements, writings and documents in matters within the jurisdiction of a department and agency of the United States, to wit, the United States Department of Justice, Immigration and Naturalization Service, knowing said statements and writings to contain false and fraudulent statements.

(Title 18, United States Code, Section 371).

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COUNTS TWO THROUGH SEVEN

The Grand Jury further charges:

8. On or about the dates hereinafter set forth in Counts Two through Seven, in the Southern District of New York and elsewhere, the defendant GENE LOY CHU, in matters within the jurisdiction of a department and agency of the United States, to wit, the United States Department of Justice, Immigration and Naturalization Service, unlawfully, wilfully and knowingly made and used false writings and documents, to wit, Forms I-130, "Petition to Classify Alien Relative for Issuance of Immigrant Visa", knowing said writings and documents to contain false, fictitious and fraudulent statements and entries with respect to the residence and marital relationship of the United States citizens and alien beneficiaries on whose behalf said writings and documents were filed by the defendant GENE LOY CHU with the Immigration and Naturalization Service:

COUNT	MARRIAGE	DATE
2	Rodriguez-Ho	June 20, 1973
3	Torres-Hu	July 23, 1973
4	M. Miranda-Fan	August 8, 1973
5	C. Miranda-Jout	August 20, 1973
6	Hernandez-Chang	November 8, 1973
7	Cruz-Yeung	February 1, 1974

(Title 18, United States Code, Sections 1001 and 2)

COUNTS EIGHT THROUGH THIRTEEN

The Grand Jury further charges:

9. On or about the dates hereinafter set forth in Counts Eight through Thirteen, in the Southern District of New York and elsewhere, the defendant GENE LOY CHU unlawfully, wilfully, knowingly and corruptly endeavored to influence and impede the witnesses named herein in Counts Eight through Thirteen

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in proceedings pending before a department and agency of the United States, to wit, official inquiries conducted by the United States Department of Justice, Immigration and Naturalization Service, to determine the truth of information on Forms I-130, "Petition to Classify Alien Relative for Issuance of Immigrant Visa," which were filed by the defendant GENE LOY CHU on behalf of said witnesses, whom the defendant GENE LOY CHU advised to lie and give false statements during interviews with the Immigration and Naturalization Service concerning their marital relationship:

COUNT	WITNESS	DATE
8	Elizabeth Hernandez	November 11, 1973
9	Mildred Miranda & Fan Wun Chiu	January 18, 1974
10	Francisca Torres	January 30, 1974
11	Carmen Miranda & Jout Jan Jong	April 2, 1974
12	Ingard Cruz	January 8, 1975
13	Yeung Yau Choy	August 4, 1975

(Title 18, United States Code, Section 1505)

COUNT FOURTEEN

The Grand Jury further charges:

10. In or about September, 1974, in the Southern District of New York, the defendant GENE LOY CHU unlawfully, wilfully, knowingly and corruptly, and by threatening communication endeavored to influence, intimidate and impede Elizabeth Hernandez, a witness in a proceeding pending before a department and agency of the United States, to wit, an investigation being conducted by the United States Department of Justice,

Immigration and Naturalization Service, into the circumstances surrounding the marriage of Elizabeth Hernandez to Chang Yung Kang, by confirming a threat made to Elizabeth Hernandez by Chang Yung Kang to the effect that Elizabeth Hernandez would suffer bodily harm if she would not agree to go through with preparations to give false statements at an interview to be conducted by the Immigration and Naturalization Service for the purpose of assisting Chang Yung Kang to obtain a visa under false pretenses in order to remain in the United States.

(Title 18, United States Code, Section 1505).

FORLIAN

ROBERT B. FISKE, JR.
United States Attorney

A - 14

United States of America vs.

United States District Court

DEFENDANT: GENE LOY CHU

SOUTHERN DISTRICT OF NEW YORK

DOCKET NO. 76 Crim. 439

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (6/74)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date — DAY 1 YEAR 1976

[ ] WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

[X] WITH COUNSEL Peter Fleming, Esq., John Sprizzo, Esq.
(Name of counsel)

PLEA

[ ] GUILTY, and the court being satisfied that there is a factual basis for the plea, [ ] NOLO CONTENDERE, [ ] NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~ verdict of [ ] NOT GUILTY. Defendant is discharged [X] GUILTY.

Defendant has been convicted as charged of the offense(s) of combined, conspired, confederated and agreed together and with each other and with other persons to the Grand Jury known and unknown, to defraud the United States and to violate Sections 1001 and 1546 of Title 18, United States Code, unlawfully wilfully and knowingly made and used false writings and documents, and unlawfully, wilfully, knowingly and corruptly endeavored to influence and impede the witnesses in proceedings pending before a department and agency of the United States. (Title 18, U.S.Code, § 371; Title 18, US.Code, §§ 1001 and 2; Title 18, U.S. Code § 1505.)

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of SIX (6) months on Counts 1,3,4,5,6,8,9,10,11 and 12 to run concurrently with each other. Execution of Sentence is Suspended. Defendant is placed on probation for a period of TWO (2) YEARS, subject to the standing probation order of this Court. Defendant is fined $10,000 on Count 1; defendant is fined $2,000 on each of Counts 3,4,5 and 6; defendant is fined $1,000 on each of Counts 8,9,10,11 and 12, for a total fine of $23,000. The committed fine is to be paid within thirty (30) days.

SPECIAL CONDITIONS OF PROBATION

Defendant shall not represent or counsel any persons in any matter pending before Immigration & Naturalization Services during the period of probation.

DOCKETED AS
A JUDGMENT # 76 633
ON July 6, 1976

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

U.S. DISTRICT COURT FILED JUL 1 1976 S.D. OF N.Y.

SIGNED BY

[X] U.S. District Judge

[ ] U.S. Magistrate

William C. Conner

Date 7/1/76

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA :

vs. :

GENE LOY CHU, : 76 Cr. 439 (WCC)
JEAN FONG,
KUO PING YU, :

Defendants. :

----------x

Before:

HON. WILLIAM C. CONNER,

District Judge
and a Jury.

May 4, 1976
10:00 a.m.

APPEARANCES:

ROBERT B. FISKE, JR., ESQ.
United States Attorney for the
Southern District of New York,
T. BARRY KINGHAM, ESQ., Assistant United States
Attorney

PETER FLEMING, ESQ.,
JOHN SPIZZO, ESQ.,
Attorneys for defendant Chu

THOMAS CONCANNON, ESQ.,
Attorney for defendant Fong

LEO BARRY, ESQ.,
Attorney for defendant Yu

(In the robing room)

MR. KINGHAM: Your Honor, two things I think have to be done preliminarily. First of all, the defendants should be arraigned on the superseding indictment.

THE COURT: Do you want to do that here and not in front of the panel?

MR. KINGHAM: I think we should.

Secondly, as the Court knows, requested voir dire questions have been sent to the Court both by the defendant Chu and by the government. I would request a ruling on those voir dire questions before the panel is addressed in accordance with my memo this morning.

THE COURT: I have gone over the proposed voir dire questions. I am going to ask the substance of all of the questions proposed by the government with some minor change in language.

I am not going to read or give the essence of anything in the first four pages of the defendant Chu's requested instructions. To the extent that it is relevant and proper, it is essentially duplicative of material in the government's proposed questions. I will ask question A at the top of page 5, with the exception

of omitting the part about the presumption that the prosecution is wroig in bringing the case.

In other words, I will ask the first three lines and add "Until proven guilty beyond a reasonable doubt."

The B through E parts of that are essentially repetitions. The material at the top of page 6 I will not give. Question 2 I will not ask.

I will ask questions 3A, B and C in substance. I have changed the wording somewhat to eliminate repetition. I will not ask 4 or 5.

I will ask 6 through 11.

MR. KINGHAM: Your Honor, may I be heard?

THE COURT: All right.

MR. KINGHAM: If the Court asks 3A, B and C in substance, it would seem to me that that in effect is directing a judgment of acquittal in this case --

THE COURT: I should have made clear, I said I had changed that somewhat. I should have been more specific. I have changed it so that, for example, C reads "I instruct you further that there is nothing illegal in and of itself in an alien entering into a marriage with an American citizen, with the intention

of qualifying for a permanent residence in the United States, if the alien has a bona fide intention of residing with his U. S. spouse and of assuming all of the duties and obligations of marriage."

MR. KINGHAM: Thank you, your Honor.

MR. FLEMING: I think that is correct.

Your Honor, we have one other application. That is in view of the nature of the case with three defendants who may have conflicting interests, would your Honor grant four additional peremptory challenges to the defendants as a group?

My request would be that your Honor do that for a total of 14 to be exercised in rounds of three, three, three and three and then one and one. In other words, it would add an additional challenge to each of the four rounds, if your Honor please.

I think by the nature of the case, by the nature of hte citizenship of at least two of the defendants and what might be conflicting interests between the three defendants --

THE COURT: I will do this. I will grant you a total of 12, three each of four rounds.

MR. KINGHAM: There are normally six rounds. The government gets a challenge on each of the six rounds.

THE COURT: I was going to make you exercise two challenges on the first two rounds, but --

MR. KINGHAM: If you were to set it at two challenges each round for the defendants, they would then have their 12. One for me on each --

THE COURT: The trouble is each defendant wouldn't get a challenge each round. It makes it a little more difficult to compute. You would both prefer it, I take it, to have it two challenges for the defendants and one for the government in each of six rounds?

MR. KINGHAM: I would prefer that, your Honor.

THE COURT: Defendants would prefer that as well.

MR. FLEMING: If it is to be 12 challenges, we would.

MR. CONCANNON: That would be satisfactory.

MR. BARRY: Your Honor, I have an application, I don't know how you are going to entretain it, but I'd like an adjournment here, your Honor. The first time I saw the documents was this morning, they were delivered to my office on Friday. I came in from San Francisco last night.

I think in view of the documentation that I have been able to scan through, your Honor, I don't think it would be properfor me to go on. I mean, with all the documentation, it must be 25 pounds. It must be that thick.

THE COURT: How long have the documents been available for the defendants?

MR. KINGHAM: First of all, the rule 16 material, that is the documentary evidence in this case, was turned over to the defendants approximately six weeks ago. The 3500 material to which Mr. Barry --

THE COURT: Which is premature.

MR. KINGHAM: To which Mr. Barry is referring, thatis premature, but, indeed, the government turned that over on Wednesday of last week.

Mr. Barry's associate, Mr. Stillwagon, was present in my office and picked it up.

MR. BARRY: That was Friday, your Honor, not Wednesday.

MR. KINGHAM: I am sorry, it was Wednesday.

THE COURT: Even so, the 3500 material is not technically due until after direct examination of the witness.

MR. KINGHAM: That is correct, your Honor.

1hr

THE COURT: No. If you have had all the rule 16 material for approximately six weeks and all the 3500 material at least since Friday, thatis over the weekend, I think you had ample opportunity to prepare, and with three defendants it is pretty hard to schedule a time that's satisfactory to all defendants and their counsel.

So I am going to deny your motion for a continuance.

MR. KINGHAM: Your Honor, if we could call each of the defendants in, we could arraign them on the superseding indictment.

(The defendatns entered the robing room)

MR.KINGHAM: Your HOnor, at this time the government requests that each of the defendants enter pleas to superseding indictment 76 Cr. 439.

THE COURT: Have each of the defendants had a copy of the superseding indictment?

MR. CONCANNON: Yes, your Honor.

MR. BARRY: Yes, your Honor.

THE COURT: How does the defendant Gene Loy Chu plead to the superseding indictment?

DEFENDANT CHU: Not guilty.

THE COURT: How does the defendant Jean Fong

plead to the superseding indictment?

MR. CONCANNON: Not guilty, your Honor.

THE COURT: How does the defendant Kuo Ping Yu, also known as Jimmy Yu, plead to the superseding indictment?

DEFENDANT YU: Not guilty.

MR. KINGHAM: The government would prove orally for an order of nolle prosequi to be filed with respect to indictment 75 Cr. 1263.

THE COURT: It will be granted. Anything further?

MR. KINGHAM: Nothing further, your Honor.

(In open court)

THE CLERK: United States of America vs. Gene Loy Chu, Fean Fong and Kuo Ping Yu.

Government ready?

MR. KINGHAM: The government is ready, your Honor.

THE CLERK: Defendant Chu ready?

MR. FLEMING: Mr. Chu is ready.

THE CLERK: Defendant Fong ready?

MR. CONCANNON: Defendant Fong is ready.

THE CLERK: Defendant Yu ready?

MR. BARRY: The defendant Yu is ready.

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(A jury of 12 was duly impaneled and sworn)

(Four alternate jurors were sworn)

THE COURT: Because I have another jury out in another case that have asked for some supplemental instructions I am going to have to take a break now. So we are going to take our noon recess at this time and you can come back at 2 o'clock.

Don't discuss the case in the meantime with your fellow jurors or anyone else. We want you to keep an open mind about the case until you have heard all of the evidence.

So be back promptly at 2.

(Jury left the courtroom)

THE COURT: We will recess until 2 o'clock.

(Luncheon recess)

AFTERNOON SESSION
2:00 p.m.

(In the robing room)

THE COURT: What is the problem this time?

MR. KINGHAM: Your Honor, Mr. Fleming mentioned to me thathe has an application with respect to my investigator, Mr. Hittelman. I thought it better to do this before the jury comes in.

MR. FLEMING: Your Honor, we would just like him excluded from the courtroom. We understand that sometimes an exception is made for what is called the case agent, but Mr. Hittelman on all of the Jencks material that we received was actually the interviewing agent along with another INS agent, and I believe particularly in this case, where you have Chinese aliens testifying subject to deportation, that there is substantial coercive effect in having the agent who took their statement, under whatever circumstances he may have taken it, sitting there looking him in the eye as he is being cross-examined.

THE COURT: Is he going to be a witness in the case?

MR. KINGHAM: He is not going to be a witness for the prosecution, your Honor. I would object to

having him excluded. I need his assistance during the trial for matters involving immigration procedure if nothing else, and certainly there are a lot of documents here. I have no other assistant. I would request that Mr. Hittelman be allowed to stay.

THE COURT: If he is not going to be a witness I would see no reason whatever to exclude him.

MR. FLEMING: We will, your Honor, or may well be cross-examining his witnesses with regard to the conduct of Mr. Hittelman during his interviews of these witnesses.

THE COURT: If they are telling the truth they don't need to worry about the fact that he is present in the courtroom it seems to me.

MR. FLEMING: Our point is we believe they would, particularly witnesses of this classification, that is, Chinese aliens who are subject to the power of the Naturalization and Immigration Service at this very moment.

MR. CONCANNON: Your Honor, I don't think it is the usual case agent situation. We have reason to believe that the very man sitting right before them and indeed assisting them to the witness room and in and out of the courtroom has substantial influence over them

outside of the courtroom and particularly in this situation inside of the courtroom.

It's not like the sort of arrangement where an FBI agent has interviewed many witnesses in connection with a bank robbery or in a stock fraud case where the agent does nothing more than analyze pieces of paper for making charts and assisting in superficial clerical tasks.

This is a situation where these witnesses are going to be looking right into a man's eyes who we feel had a great deal to do with them changing their posture about the circumstances at one point and we are very much concerned that this influence is still present.

THE COURT: If the objection had been made at an earlier date, when there was a reasonable opportunity for the government to provide another assistant for the prosecutor, I might be inclined to be more receptive to it. But to come in at the start of the trial and ask for exclusion of the only assistant that has been prepared and trained to help at the trial I think is grossly unfair.

MR. BARRY: This is the first opportunity we had, your Honor, to know he was going to be here,

when w saw him here this morning.

THE COURT: You could have inquired earlier whether he was planning to be here.

MR. BARRY: There would be no reason for us to inquire, your Honor.

THE COURT: One reason would be so thatyou wouldn't be in the qind you are in right now, so that I am practically forced to deny your request in order to avoid prejudice to the government, and if you didn't foresee it, I am very sorry, but I think it would be very unfair to the government if I took away the only assistant that the prosecutor has.

MR. BARRY: There are other members from Immigration and Naturalization Service outside, your Honor. I see some investigators.

Are they going to testify, Mr. Kingham?

MR. KINGHAM: No. There is only one witness from immigration. He is in the witness room, your Honor. Others who may have come to watch the trial, I know of one or two who may have come over, but other than that, they are purely spectators as far as I know. In fact, one of them I haven't even met until today.

MR. FLEMING: One of them I understand is the other agent who conducted these interviews.

Certainly he shouldn't be in the courtroom.

MR. CONCANNON: Your Honor, concerning Mr. Hittelman, I am still, frankly, quite concerned, especially in view of the fact that the government indicates his function is to be essentially clerical. There is no reason why Mr. Hittelman can't be available --

THE COURT: It's not merely clerical. He is also in an advisory capacity because he is familiar with the Immigration and Naturalization Laws and regulations and he is in an advisory as well as a clerical capacity.

MR. CONCANNON: Could he not remain available to the government if he were in the witness room for such advice that Mr. Kingham might seek?

THE COURT: I don't think it's fair. He is not there to observe what is going on and be in a position to volunteer advice rather than merely being asked for it when the prosecutor thinks the occasion has arisen.

With respect to the others that are here as observers, who are not actively assisting you, if they did participate in interviewing the witnesses I would be inclined to go along with the request.

MR. KINGHAM: I have no objection to that,

your Honor.

MR. FLEMING: I think if they are known to the witnesses to be members of INS, your Honor.

THE COURT: I have already said that I will go along with your request that they be excluded.

MR. FLEMING: Fine. Thank you, your Honor.

MR. KINGHAM: I will see that that is done, your Honor.

MR. CONCANNON: Your Honor, I have a request. I understand that co-counsel have ordered daily copy and I think if nothing else, at least the appearances of justice have some importance. I would ask that defendant Fong be permitted a copy under the Criminal Justice Act.

THE COURT: Since the government has it and since the defendant Chu apparently is ordering one as well I will grant your request.

MR. CONCANNON: Thank you, your Honor.

MR. KINGHAM: Thank you, your Honor.

MR. FLEMING: Thank you, your Honor.

(In open court; jury present)

THE COURT: I want to make a few general comments about the order of proceedings so that you will know what to expect as we go along.

We always begin with the opening statements of counsel. The government, which as I have told you before has the burden of proof in the case, makes its opening statement first and then each of the defendants will make his or her opening statement.

These opening statements are merely like the table of contents of a book, a summary of what the counsel think the trial will or will not be, in other words, what the evidence will or will not show. The statements are not evidence in and of themselves and when you come to deliberate your verdict you will base your verdict only upon the evidence, not upon the statements of counsel made either before the trial or after the trial.

The evidence on which you will base your verdict will come to you in the form of testimony from the witness in the witness chair, from exhibits that are introduced into evidence, from any out-of-court depositions or testimony that are read into evidence, and any stipulations of fact, that is, agreements between counsel, as to what the facts are, and those agreements take the place of evidence.

After the opening statements we will begin with the actual presentation of the evidence and the government will begin first, then the defendants will

have an opportunity to put in their respective cases, if they elect to do so. As I have told you before, the defendants are not required to prove anything. They may or may not elect to put in evidence in the case, and if they decide not to put in evidence you can't form any adverse inference or conclusion from the fact that they elect not to put in evidence.

The privilege not to testify against yourself or not to give evidence in a trial in which you are accused of a crime wouldn't be worth much if the jury could assume from the fact that someone elects to avail himself of that privilege that he must be guilty, otherwise he would take the stand and testify or put on evidence of some other kind.

After the defendants have put in their case the government has the opportunity to put in a rebuttal case to answer any points that it wishes to answer in the cases put on by the respective defendants.

After all of the evidence is in counsel will make their closing arguments or summations and these are made in inverse -- no, I take it back, not any more. The government makes it closing argument first, then the defendants make their closing arguments, and the government has the opportunity for a brief rebuttal.

After the closing statements the Court will then give you its instructions or charge, setting forth the applicable legal standards which you will use in reaching your verdict. You will determine all of the issues of fact and you will apply the standards or tests that the Court gives you as to the applicable law and your verdict is the result of applying to the legal standards that I give you in my instructions or charge the facts as you find them in your deliberations. You will be the sole and exclusive judges of the facts and you will base your findings of fact upon the evidence you have heard and seen during the trial.

Pay very careful attention to the evidence as it goes in. It's not customary for the jurors to take notes and your findings will be based upon your recollection of the evidence, although if you can't recall what the evidence was in a certain respect or if you have varying recollections ofthe evidence any part of the testimony can be re-read from the notes of the stenographer.

Likewise, if you want to have any of the exhibits in the jury room for your inspection during your deliberations all you have to do is to request those exhibits and they will be sent into you.

All right. We begin now with the opening statement of the government. Mr. Kingham.

MR. KINGHAM: Thank you, your Honor.

May it please the Court, Judge Conner, Mr. Hittelman, gentlemen of the defense, Miss Borell, our forelady, and ladies and gentlemen of the jury:

This case is a case about a lawyer, a case about that lawyer over there fourth from the left, Mr. Gene Loy Chu, a case about a lawyer who defrauded the United States Government, a lawyer who filed documents with the government containing false information, a lawyer who tried to obstruct the investigation conducted by the Immigration Service into the fraud that he and his co-defendants had committed.

And it's about two other people. It's about this woman next to Mr. Chu, Jean Fong, and it's about this gentleman right here, Mr. Jim Yu, who recruited for the lawyer, Gene Loy Chu. They recruited clients for him, but these were no ordinary clients, ladies and gentlemen.

Jimmy Yu provided Chinese men, aliens, that is, people who are not citizens of the United States, but who wanted to get permanent residence in this country and who were willing to pay for it and who were

willing to lie for it. And Jean Fong provided women who were willing to marry those men for money in order to help them in their fraud to gain permanent residence in this country.

The only purpose of those marriages was to bypass the immigration laws and to defraud the United States and the immigration service into believing not just that these people were married, but that they were living together as husband and wife and that they intended to live together as husband and wife when in fact they did not at all. All they wanted to do was to fool the immigration service into believing that they wanted to be husband and wife.

MR. FLEMING: Your Honor, I have no objection to Mr. Kingham opening on what he intends to prove. I do have objection to conclusions and argument.

THE COURT: I will give the jurors the necessary instructions as to the law and I want you to construe what Mr. Kingham is saying as his hopeful statement of what the government expects to prove by way of facts during the trial and nothing else.

MR. KINGHAM: Thank you, your Honor. And we will prove that. We will prove the fraud, and we will prove that their intention was that after the fraud was complete and after the Chinese man had obtained his green card, which is the card that shows you are a permanent resident, that the parties would then get divorced and the marriage would be ended. The key to this scheme was the lawyer, Gene Loy Chu.

His role, as we will prove, was to prepare documents and file those documents with the immigration service. His role was to handle most of the money in these transactions and to take money from the Chinese men to be paid to the United States citizen spouses.

His role, as we will prove, was to act as the overall arranger of these marriages, and as the author of this scheme. His role was to counsel his clients, the aliens and citizens alike, to lie at immigration service interviews during the investigations into the circumstances surrounding these marriages.

What brings us all together, ladies and gentlemen, is the fact that these three defendants are charged with crimes for doing what we will prove they did.

As you know, my name is Barry Kingham. I am

an assistant United States Attorney and I represent the government in this case. Seated with me at the counsel table is Mr. Gary Hittelman. Mr. Hittelman is an investigator with the immigration service, and he will be present during the presentation of the government's case.

As you know from Judge Conner's instructions, the burden of proof is on the government. If you are to convict, the government must prove guilty beyond a reasonable doubt. We accept that burden and we will prove guilt.

You have heard about an indictment. The indictment is, as Judge Conner pointed out, merely the charge, the way the defendants are put on notice to come to Court. That indictment in this case contains the blueprint of what the govenment is going to prove.

As you know, all three defendants are charged with conspiracy. Conspiracy to defraud the United States and to believing that the spouses in these marriages intended to live together, conspiracy to violate certain sections of the federal law, sections that prohibit the filing of fales documents and giving false information to the federal govenment during investigations.

The indictment charges that Gene Chu and at least one of the others, Jean Fong or Jimmy Yu, the two co-defendants, and, as you will hear, some other people as well, are involved in arranging the marriages, filing the phony documents, counseling witnesses to lie.

The object, of course, of the conspiracy as the indictment charges was to get immigrant visas for these Chinese aliens by fraudulent means, and because although they were married at City Hall, as we will prove, they were marriages on paper only, and the sole reason was to get these immigrant visas, get their green cards, get permanent residence, and get divorced.

In addition to conspiracy, the indictment charges certain violations of the federal law that are called substantive counts. Those are specific violations of federal law that are charged against the lawyer, Gene Chu, only

He is charged in six counts with filing documents that contain false information. He is charged in six more counts with attempting to obstruct the immigration investigation by advising his clients to lie.

He is charged finally in the last count with joining in a threat to harm one of those witnesses,

one of his clients, if she didn't go through with the interview and lie to the immigration service.

How is the government going to prove that these defendants are guilty? We are going to do it through witnesses, that is live testimony. We will do it through some stipulations, as Judge Conner pointed out, are merely agreements as to what the facts will be. They will save us some time here, and the documents.

You will also see some documents, quite a few documents, documents which you can read for yourselves, documents you can pass through the jury and look at during the trial and take with you later in deliberations.

We will begin that evidence after I have finished speaking and the defense lawyers, if they wish, have made opening statements to you.

But let me tell you now in my opening statement how it is that we are going to prove guilt, what the proof will show. I will give you an example of one of the marriage situations that we will prove.

You will hear testimony that in order to obtain permanent residence in the United States, a person who is called an alien, that is someone who is not alien adjusted by the immigration service. That means the

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immigration service declares that he is then a permanent resident as opposed to someone who is here simply on a passport or a visa, which are terms you may be more familiar with. When you get your status adjusted by the immigration service, you get a green card, which is the evidence of the fact that you are a registered alien with permanent residence in the United States.

One way to do this is to marry a United States citizen, if you are an alien. You can marry a United States citizen, and you get classified as an immediate relative of the United States citizen. Once that happens you can apply to get an immigrant visa or to have your status adjusted, and then you can get a green card where the immigration service approves it.

As the proof will show, marrying someone who is a citizen is one of the best ways to get permanent residence in this country. First of all, there is no quota on the issuance of immigrant visas which are the key to permanent residence. There is no quota on those for people who are married to United States citizens.

As you will hear, there is a quota for people who try to get permanent residence through other ways. Secondly, a spouse with a green card, that

is if you are married to a United States citizen and you are what is called a resident alien, only has to wait three years to be eligible for United States citizenship, instead of the normal five years, which people in other categories would have to wait.

So you can see that this is a very desirable way in which to get a green card and in which to get your permanent residence. As you will hear before October of 1973, it was pretty easy to get a green card through the immigration service.

First the alien would marry a citizen, then the citizen would file a document. The document was called a form I-130, and you will see a lot of these forms and you will hear that term a lot. The form I-130 is a petition to classify an alien relative for issuance of an immigrant visa.

The form simply says, as you will see, "This is my spouse, I am a United States citizen, I am married to this individual, please consider him or her for an immigrant visa for a green card for permanent residence."

Prior to October, 1973, all you had to do was file that certificate, a marriage certificate, file the birth certificate of the citizen and the petitions were almost automatically approved.

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In October of 1973 and around that time the immigration service began an interview program, and they would interview the couples to determine whether they were really living together, as the forms claimed, or whether they had been married solely to get permanent residence in this country.

Couples would be called in, with an attorney, if they had an attorney. They would be interviewed under oath. They were both asked questions about their lives together, about their daily activities, about what tey knew about each other. They would be questioned separately, and the immigration service interviewer would compare the answers that the different parties had given, the husband and the wife.

If the answers didn't match they referred the matter on for further investigation, or they could disapprove the petition .

That is what is called the I-130 program, and it is named, of course, for the form that you will see, the I-130 form, the petition for classification.

How do these defendants, Gene Chu, Jean Fong and Jimmy Yu fit into all of this? First of all, Jimmy Yu, this gentleman right here, would know or would find a Chinese man who wanted to get married in order to get

his green card. Jean Fong, whom you will hear was also known to some of the girls as Mom, would find women, women who were citizens, generally born in Puerto Rico or of Spanish descent, United States citizens who were willing to get married to these Chinese men for money.

The introductions of these couples would often take place in the lawyer's office, inthe office of Gene Loy Chu, over here at 9 Division Street in Chinatown. Gene Chu would then explain the scheme to them.

You will hear proof that the scheme was this: The girl was told she would get $3500 for her services. She would get $1500 in cash on the date of the wedding, she then would get $2000 in monthly installments until the entire $3500 had been paid. She would also get part of her living expenses paid for, she would also get an apartment, if it was necessary.

Gene Chu, as you will hear, told these people, told the citizens, that that is what they would get for marrying a Chinese alien. He told them what they would have to do for that.

First of all, they would have to get married. They would have to go to City Hall and go through a real marriage ceremony.

Secondly, they would have to set up an apartment

together, and if not living together, at least the clothes of the Chinese man would have to be in the apartment. They would have to get together as often as they could to learn about each other, to learn the apartment, to trade information, to find out about each other.

They were told when they asked, as you will hear, that if they didn't want to, they didn't have to have to have sexual relations with their husband or wife. That was up to them. They were told in many cases that after the alien got his green card, the citizen spouse could go to Haiti and get a divorce.

After they were told this at the very beginning, Jean Fong would take over. The proof will show you that she took a lot of these couples for blood tests, she took them to City Hall, the Municipal Building over here where you get married, and she and in some cases Jimmy Yu would witness these marriages, they would sign as the witness, and you will see that they signed under many different names on the marriage licenses.

For this service Jeannie Fong usually got about $200 from the girl who got married. The proof will show that other money changed hands, because before the wedding, before the wedding, typically the Chinese alien would give to Gene Chu approximately $2000 or $2500,

which would include the $1500 cash for the girl and $500 or $1000 for Gene Chu's services in this scheme. No receipts, no checks, no records, cash only. Then they would get married.

After the wedding they go back to Gene Chu's office where he had been holding the cash, and he would give the girl $1500 in cash that he had been holding for the Chinese man, and he told them "I will be in touch with you, I will let you know about your petition and about what immigration is going to want to do."

Then typically, as the evidence will show, the married couple split up. In some cases the Chinese man would come around to the girl's apartment or set her up in an apartment, and you will hear that they didn't live together, the girls often lived with other girls, they had roommates, they didn't live with their Chinese husbands. Some of them lived with other men, but not with their Chinese husband.

You will hear that the Chinese husbands only came around for the purpose of looking at the apartment, practicing what to say at immigration, and finding out as much as they could about their United States citizen spouses so that they could defraud the immigration service.

Meanwhile, the lawyer, Gene Chu, had filed some documents with the immigration service. These documents, as you will see, include the I-130 petition form on which he had had typed some information, and you will hear that the citizen spouse, that is the United States citizen, the woman in this case, would be told on the day of her marriage to sign this I-130 form, and that usually it was blank.

A couple of days after the marriage, the form would be filed with the immigration service. When it was filed, of course, the blanks had been filled in, and the blanks contained false information about where the parties supposedly had resided since their marriage a few days or weeks before, and intended to reside in the future, supposedly together.

The evidence will show that they didn't live together at those addresses, although one or the other might have lived there, and that they never intended to live together as husband and wife at those addresses.

You will also see from the documents that Gene Chu is not only a lawyer, he is a notary public, and that he notarized these documents, and that his signature appears as a notary public and as the person who helped his clients prepare the documents and that the

date of the notarization is not the date of the wedding, the date on which the forms were signed in his presence, but several days or a week or so later, so as the government will prove it didn't look like the parties had come to Gene Chu's office until after they were married a couple of days or a couple of weeks later, when in fact he had known all along that they had been there before they were married, and on the day of their wedding, and that the information was false.

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Now, as I have mentioned, the proof will show that in October 1973 the Immigration Service started interviewing people in the I-130 program and in order to interview them, of course, they had to send notices, and they would send a notice to the spouse, usually to the petitioner on this form, who is the woman, at the address that was provided as the address where the parties were living together. A copy of this notice would be sent to the lawyer, to Gene Chu, because he had filed what is called a notice of appearance. He had let the Immigration Service know that he was the lawyer for these people.

After the notice was received by Mr. Chu and by the other people, the spouses, he called them to his office and he would prepare them, prepare them for the interview that they were to undergo under this new program in Immigration, and he would ask them questions that they could expect to be asked and he would let them answer them. But you will also hear that these were not ordinary interviews. These were interviews in which he told them what answers to give when they were asked how they met. They should never say they met at his office. Say you met at a party some place. That they should lie about how much money had been paid to him as legal fees, that they should lie and tell the Immigration Service that no

money had ever been paid to these women for marrying their husbands and that they only got married because they loved them. That's what the evidence will show and that's how we will prove that he tried to obstruct these investigations.

Then the interviews came, and, as is the policy of the Immigration Service, the lawyer goes along to the interview if he wants to, and Gene Loy Chue would go into the interview room and he would sit there while his client was sworn and given an oath and sit there while his client lied under oath and gave the answers that he had prepared the clients to give and then he would walk away with them, as we will prove, hoping and knowing that they had been successful in fooling the Immigration Service.

Later on in some of the cases Gene Chu had arranged for the divorces with a friend of his in Haiti and we will prove that when the Immigration investigation got too hot for him he reached out for some of these couples and told them again to lie and never to tell the truth about what had happened at Immigration and about their marriages. Indeed, we will prove that as late as July 1975, which is less than a year ago, he was still trying to keep the lid on, to keep people from telling the truth. But he was unsuccessful, ladies and gentlemen, and we submit that you

are going to hear the truth in this courtroom during this trial.

Now, that is what this case is all about. Let me tell you what this case is not about. This case is not about the fact that these people went through what are legal marriages in New York at City Hall. We don't dispute that. They went over to City Hall, they had their blood test, they got their licenses, they got married by the City Clerk. Nor is it solely or only about the fact that these women were paid money for getting married, because as you have heard, that is not illegal just in itself. But it's about the intention of all of these parties, the intention to defraud the United States, to defraud the Immigration Service into believing that they intended to live together and that thery were living together as husband and wife.

Now, I mentioned intention. Obviously in order to convict Mr. Chu and Mrs. Fong and Mr. Yu the Government has to prove to you beyond a reasonabloe doub t that these three defendants knew what they were doing and that they intended to do what they were doing, that they intended to defraud the United States and the Immigration Service. Of course, you can't put a machine in a person's mind and find these things out. You have to rely onthe circum-

stances, and you will know what their intentions and their knowledge were and you will know it from the testimony about their words, from the testimony about their actions and from the documents that you can read yourselves.

The testimony, of course, comes from the witnesses. Let me say a brief word before I close about the witnesses. You are going to hear several citizens, young ladies, and several aliens, young Chinese men, and they are going to testify about what happened. These people are insiders. They were there. They were part of the scheme. They intended to defraud for various reasons. The women were paid to defraud and the men intended to defraud so that they could get permanent residence.

The Government must use these people because they were there and they are the ones who know the facts. We make no excuse for them or for their fraudulent conduct. But you will hear that a decision has been made not to prosecute these people for their part in this scheme and you will also hear testimony that if they lie or commit perjury on this stand before you in this court they may be prosecuted for that perjury, and we submit to you that that won't be necessary, that these witnesses will tell you the truth, that they will tell you what they know about these

three defendants and the other people who are involved, and that that will show their guilt.

Now, those of you who have been jurors before know that evidence doesn't all come in in a trial through one witness. The first witness in this case isn't going to tell you the whole story, nor is the last witness, and there will be several in between. But nobody has the whole story. Evidence comes in piecemeal. It's punctuated with objections, it's punctuated with the conferences that you saw us have sometimes at the side bar. There will be delays like that. But I ask you to be patient during the trial, be patient with us lawyers as we work out our legal problems, sometimes out of your hearing, be patient with the witnesses.

Some of these witnesses will testify through an interpreter. Some of these witnesses will testify in the Chinese language through an interpreter and some or one at least will testify in the Spanish language through an interpreter. I ask you to be patient with them because there will be a delay between the time the question is asked and the time the answer is given because the interpreter obviously has to translate both parts. So we ask you to bear with us during that procedure.

You will also hear that although testifying in

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Chinese, some of the Chinese men who will testify do speak some English. We don't do this to hide anything. We present their testimony in Chinese because that is their native language with which they are most comfortable and can best express themselves.

You will also hear that people are testifying about events that happened two and a half, three years ago, so memories may differ, and I ask you to be patient with that.

I know you will be patient and I know that you will view this evidence with an open mind and I ask you in the name of justice to do that, because if you view the evidence with an open mind in the case the defendants get a fair trial, which is their right unde the Constitution, and the Government does too, and that is what this system of justice is all about. Keep in mind as you listen to the evidence that what comes from that witness box is the evidence in this case, as are the stipulations and the documents.

You know, words are a lawyer's stock in trade, but our words, the words that the lawyers speak to you, no matter how confincing or sincere they may sound, are not evidence. The evidence is only what you hear from the witness stand and see in the documents and you will base

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your verdict in this case on the evidence and only on the evidence.

At the end of the entire case, when you apply your common sense to that evidence, your intelligence, your sophistication as New Yorkers, you will convict these three defendants, you will find them guilty.

Thank you, your Honor.

THE COURT: Mr. Fleming, does the defendant choose to make an opening statement?

MR. FLEMING: Yes, your Honor.

Your Honor, may I have permission to move the lectern back just a bit?

THE COURT: Sure.

MR. FLEMING: May it please the Court, Mr. Kingham, members of the jury.

My name is Peter Fleming and I am an attorney. I represent Mr. Chu, who also is an attorney, as you have heard. Mr. Chu, of course, is sitting towards the end of the table, with the glasses.

I am going to be assisted in this case -- "assist" is the wrong word -- my partner and friend, John Sprizzo, who is also an attorney, will also help in the defense of Mr. Chu. Both of us will examine witnesses.

Mr. Kingham finally got to the point at the end

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when he said that what lawyers say doesn't count. We are lawyers. We will do our very best, that is, Mr. Sprizzo and myself will do our very best to present this case fairly, to defend Mr. Chu to the best of our ability, and we hope that when this case is over you will find that that is exactly what we have done, we have do our best to present this case fully and fairly to you. But what we say doesn't matter and it shouldn't matter, just as what Mr. Kingham says doesn't matter. The only thing that matters in this case, aside from the law which his Honor, Judge Conner, will give to you, is, first, what the evidence is -- Mr. Kingham has talked about a lot of things that he says happened and he says people will get on the witness stand and say happened -- first, what is the evidence, and second, after what is the evidence, what is the believable evidence.

Really in the end the question comes down, as you all know, to what is the truth, and the only people in this courtroom that count in determining what is the truth are going to be the 12 jurors who at the conclusion of this case, after his Honor has instructed as to the law, the 12 jurors who will take what the people have said and will go in that jury room and will determine for themselves what is the truth.

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Now, there is an indictment in this case. As his Honor has said, an indictment is nothing. Each of you has taken an oath that you agree that an indictment is nothing. You just don't accuse people and convict them of federal felony crimes.

We have a funny country and in this country, as his Honor has said, any one of us charged with a crime by the Government, any one of us charged with a crime is presumed to be innocent -- it's a funny way we have -- and they have the burden of convincing the 12 people who decide what the truth is that any one of us is guilty beyond a reasonable doubt. I will not get into that. That is his Honor's function. It's really a matter of conscience.

The case is called United States against Chu, Mrs. Fong. It's just a charge. You are the United States and you are the ones, the people of the United States, who will decide it.

A couple of comments about evidence. Witnesses will be called by the prosecution and they will testify in response to questions asked by Mr. Kingham. The questions aren't evidence. Their answers are evidence.

I just ask one thing. Remember that they will also be cross-examined. They will be asked questions by Mr. Kingnam and then they will be asked questions by the

attorneys for the different defendants, myself and Mr. Sprizzo among those. I want you to remember that the evidence is both direct examination by Mr. Kingham and cross-examination as to what has been said, cross-examination by lawyers representing these men and this woman.

Now, who is Gene Chu? Well, Gene Chu, as you have heard, is an attorney. He was born in Chinatown. He was educated here in New York City at Wagner College. He graduated from Wagner College and went to St. John's Law School over in Brooklyn. He graduated from St. John's Law School in 1956. That is, I guess, just 20 years ago.

He started to practice law in 1957 and returned to Chinatown, where he had been raised, to practice law. He has practiced there since, since 1957.

He is married and has two children. You will hear evidence that he is a man of high reputation. In those 20 years he has never been charged with a crime.

Mr. Kingham, if I recall what he said in his opening statement, if I recall correctly, his very first words were "This is a case about a lawyer." He was talking about Mr. Chu. I think you may find after all the evidence is in that this is in many respects a case about a lawyer, and that is Mr. Chu, and you may find a case about

making a case on a lawyer.

After all is said and done, after all that Mr. Kingham has said, the Government will, quote-unquote, the prosecution will, quote-unquote, prove -- that is, they will call witnesses to say; you will determine whether it's truthful -- what does the indictment come down to? I have the indictment. It does charge a conspiracy to defraud the United States and to make false statements to the United States about these marriages that Mr. Kingham has described, and with regard to Mr. Chu it has a series of allegations, of charges, Counts 2 through 7. They each charge that Mr. Chu made a false statement on these Form I-130's in connection with these marriages, and the marriages are all listed, the marriages of Law Miss Rodriguez to a William Ho, the marriage of a Miss Torres to a Tommy Hu, the marriage of a Mildred Miranda to a Michael Fan, the marriage of Carmen Miranda to a Joseph Jout, the marriage of a Miss Hernandez to a man named Perry Chang, and the marriage of a Miss Cruz to a man named Brian Young.

There is no question that each one of those men was a Chinese alien, did not have the right to stay in this country. There is no question, we do not dispute it, that those men married those women certainly at least in part with the hope of obtaining permanent residence in this

country.

There is also no question that consideration in the form of cash was paid to each of these women in return for their agreement to marry these men. And there is no question that the man I represent, Mr. Chu, knew all of this. We do not dispute it.

Is it a crime? It is alleged that Mr. Chu made false statements. It is alleged also that Mr. Chu then had these couples go down and tell lies -- Mr. Kingham's word -- to the Immigration & Naturalization Service during these interviews that were described. Now, that is the crime that is charged, false statements and telling people to tell lies.

You will hear, as I have said, that there is no dispute about some of the things Mr. Kingham has talked about, but there is every dispute that Mr. Chu made false statements to the United States Government, that Mr. Chu told anyone to go down and lie to the Immigration & Naturalization Service.

You will hear, for example, that when Mr. Chu spoke to these couples and to these aliens, as an attorney, he told them, in essence, "You better be serious about this, because if you are not serious about this the Immigration & Naturalization Service is going to find out

it and you are going to be wasting your money and you may end up in serious criminal difficulty. So if you are going to get married you better be serious about it."

You will find perhaps early in the trial that on one occasion, the occasion that Mr. Kingham refers to, when Mr. Chu went down to the Immigration & Naturalization Service for the interviews you will hear that the interviews were of the sort that they would take the alien Chinese husband into a room and say "What time did you get home last night, what color dress did your wife have on, what color is the shower curtain, how about the drapes?" Those are the questions.

Then they would take the husband out and bring the wife in and they would say to the wife "What color dress did you have on, what time did you get home, what color are the drapes?"

If they caught them disagreeing, further investigation.

You will hear that Mr. Chu took a couple down, you may hear it early in the trial, representing them as counsel. He said, "I am representing them as counsel," and they submitted to the interview, and Mr. Chu said, "You better stop, because I don't believe they have been living together, you better not tell any lies to the

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Immigration & Naturalization Service, you just better forget about this petition and don't answer these questions or you will be telling lies and you will be in serious difficulty here."

Now, that is our part of the case. You are going to have to determine what the truth is. The question is, as Mr. Kingham finally got around to telling you, with regard to Mr. Chu, did Mr. Chu, did Gene Chu, an attorney who practiced for 20 years in Chinatown, no criminal difficulty, family of two, did he know when he prepared these statements that this was a false marriage, or whatever Mr. Kingham calls it, did he know that. You have to find, too, did he tell these people to go lie to the Immigration & Naturalization Service. That is what you are going to have to determine. We start out ahead. He is presumed to be innocent.

Let me ask you as you hear the evidence to keep one or two or maybe it's going to be three things in mind, just as you hear the evidence. I go back again. Mr. Kingham said this is a case about a lawyer. He identified Mr. Hittelman from the Immigration & Naturalization Service, this man right here.

The husbands and wives, every one of whom was married as a matter of law, who are going to get on the

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stand and apparently, from what Mr. Kingham says, make accusatory statements, they made other statements, you will hear, before they made the accusatory statements, and then you may hear they had a few conversation with Mr. Hittelman.

Do these -- and we have no anger -- do these young Chinese men who wanted to live in the United States have any reason to possibly embellish or fabricate about what Mr. Cha told them? Think of that.

(Continued on next page.)

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We know that no one of them is being prosecuted for a crime and then with regard to the young Spanish American girls who married these men, do they have any motive to embellish, to turn a phrase, to twist a conversation, to, in the end, accuse Gene Chu, an attorney, because we know, because Mr. Kingham has just said it, that not a single one of them is being prosecuted for a crime.

Unlike the Chinese husbands, they are not the subject of deportation, but you may find that until the story came out right as against a lawyer, maybe there were a few conversations about them being subject to prosecution. Hear their testimony, hear what they say when Mr. Kingham questions them, hear what they say when we question them, doing our best to bring out all of the evidence in this case.

Make up your own minds. There is not a thing we can do to make up your minds for you. Ask yourself those questions about those witnesses as you determine in your own minds finally when you receive the case whether they have proved this man is a criminal beyond a reasonable doubt.

Ask yourself also one other question, if you would:

Does it make any sense that Gene Chu, out of

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Chinatown, Wagner College, St. John's Law School, 20 years of practice, would throw his life away for what you hear is a piddling amount of legal fees? Keep these matters in mind.

Be patient. You are the only people in the world in this case who can determine what the truth is here. The only thing we ask you is, we really ask of you and demand one thing, you hold to your oaths that you have taken, and we ask one more thing, keep an open mind.

We come last, and when you receive the case after his Honor's instructions, you decide the case, you decide what the truth is, you decide what the truth is, you decide it without any favor, but you also decide it without any fear, and we will accept your verdict.

Thank you.

THE COURT: Mr. Concannon?

MR. CONCANNON: Your Honor, may I make the few comments that I have from right here?

THE COURT: Yes, you may.

MR. CONCANNON: My name is Thomas Concannon. I am a staff attorney for the Legal Aid Society from the Federal Defender Services. This is Jean Fong, whose defense I have been assigned by the Court.

She gets the name Fong, a black woman, as you

can see, by marrying some ten years ago a Chinese alien in New York City. They have been happily together ever since, and from the innocent surrounding circumstances of the introductions which you will hear about, and if you view them with jaundiced eye I suppose you can find something close to some of the things that Mr. Kingham indicated, but if you view it in accordance with your oath and with a sense of fairness, which is all we ask of you, you will see that she expected nothing more than the same good fortune that she has had, being together with a dependable person, someone who could be a solid family man, a solid father to her children, over many years.

I ask you to just keep an open mind, and I think you will have no trouble seeing this side of the facts.

Thank you.

MR. COURT: Mr. Barry?

MR. BARRY: Your Honor, the defendant waives an opening.

THE COURT: We are going to take a brief break now for about ten minutes and we will come back and start the actual presentation of evidence at that time. I should tell you this before you go.

Do not discuss the case with your fellow jurors or with anyone else until all of the evidence is in. The

reason for that is that we want you to keep an open mind until you have heard all of the evidence in the case, including any evidence that the defendants see fit to introduce.

If you have expressed an opinion about the case early in the presentation of evidence, you might find it difficult or embarrassing to change that position later on after you have heard all of the evidence. So do not discuss the case with your fellow jurors or with anyone else until all of the evidence is in and you retire to the jury room for your final deliberations.

(Recess.)

MR. KINGHAM: The Government calls Richard Guthrie.

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R I C H A R D T. G U T H R I E, called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Mr. Guthrie, how are you employed, sir?

A As a supervisor with the Immigration Service.

Q How long have you been employed by the Immigration Service?

A 23 years.

Q That's the Immigration & Naturalization Service; is that correct?

A That's correct, sir.

Q Is that part of the United States Department of Justice?

A It is, sir.

Q I ask you to keep your voice up as you testify so that we can hear you back here, because sometimes it is difficult in these courtrooms to hear, if you would, Mr. Guthrie.

Where is the Immigration Service office located here in New York City?

A 20 West Broadway.

Q Is that in Manhattan?

A Downtown Manhattan, correct.

Q What types of jobs have you held during your 24 years with Immigration?

A All types in connection with travel control matters. I processed all types of applications.

Q Does that include investigations?

A No.

Q During your career at Immigration, have you become familiar with the method and manner in which aliens

apply for and are granted permanent residence here in the United States?

A I have, sir.

Q What is an alien, Mr. Guthrie?

A An alien is somebody that's not born in the United States, primarily.

Q So that would be a non-citizen; is that correct, sir?

A That's correct.

Q What procedure must such a person that is an alien follow in order to obtain permanent residence in this country, in general?

A He must apply for an immigrant visa.

Q How does an alien do that? How does he get a visa?

A Well, there are several methods. One might be applying as a relative of a United States citizen, using Form I-130. This is the relative petition form that I am familiar with.

Q What kind of a visa is necessary in order to get permanent residence here?

A An immigrant visa.

Q Are there two types, immigrant and non-immigrant?

A Immigrant and non-immigrant, correct.

Q Generally, what's the difference between the two?

A A non-immigrant ordinarily is a visitor to the United States, somebody here on business, a student, exchange student.

Q An immigrant visa would be a visa for permanent residence; is that correct?

A He plans to remain here permanently, that's correct.

(Continued on next page.)

Q Were there any quota restrictions on the number of immigrant visas which are issued each year?

A In some instances. There is a quota restriction of 170,000 for individuals born in the Eastern Hemisphere and 120,000 for individuals born in the Western Hemisphere.

However, if there are -- certain restrictions are lifted in immediate relative cases, an immediate relative being spouses, children and parents of U. S. citizens.

Q If an alien is a spouse or the child or patent of a United States citizen, how does he apply for an immigrant visa and for classification as immediate relative?

A Via the I-130 petition, the relative position.

Q With the I-130 petition, what proof of the relationship between the parties is required?

A In the case of a parent, it would be the marriage certificate of the parents and the birth certificate of the child.

Q How about the spouse situation?

A Ordinarily it would be the birth certificate of the U. S. citizen's spouse and a marriage certificate.

Q Would those documents be filed with the

I-130 petition form?

A That's correct, sir.

Q Let me show you, Mr. Guthrie, what has been marked as Government's Exhibit 1 for identification and ask you if you can identify what that is, sir?

A This is form I-130, a relative visa petition.

Q Is that a blank form, the one that's in your hand?

A Correct, sir.

Q Do you know what edition of the form that is, what year?

A Yes, it was revised 2/1/74.

Q For the last several years have there been revisions of the form from time to time?

A Minor revisions, yes, sir.

Q But have the forms nonetheless remained substantially the same?

A Correct, sir.

MR. KINGHAM: Your Honor, for purposes of illustration, Government's Exhibit 1 for identification is offered as Government's Exhibit 1.

MR. FLEMING: No objection, your Honor.

MR. BARRY: No objection.

MR. CONCANNON: No objection.

(Government's Exhibit 1 was received in evidence)

Q Mr. Guthrie, with respect to Government's Exhibit 1 for identification, could you explain to the Court and jury what the various parts of that document are?

A The first page and second page are instructions, actually. The first page of the application itself deals primarily with information regarding the petitioner and the residence of the petitioner --

Q Excuse me, sir. Would the petitioner be the alien or the citizen?

A No, pardon me. The first page is the beneficiary. The beneficiary would be the alien.

Q The petitioner is the citizen, is that correct?

A Correct.

Q What part of the form applies to the petitioner who is a citizen?

A That's the second page. On the second page you have information regarding the U. S. citizen petitioner and the notary and a line indicating who exactly prepared the petition.

Q Are there any other parts to the form?

A There is an I-130A, which in effect is a locater. This is used in the office to locate the various files within the particular office.

Q I notice a piece of carbon paper in the form. Is that to transfer information from the I-130 to the I-130A?

A Correct, sir.

Q So the same information in part would be on both forms, is that right?

A Right. Information as it relates to the alien beneficiary.

Q Mr. Guthrie, where are these petitions, at least in the New York area, where were they filed?

A At 20 West Broadway.

Q ARe they available to the public at 20 West Broadway, someone could come in and pick one up?

A Yes, sir.

Q Are you familiar, sir, with the manner in which the I-130 forms are processed by the immigration service?

A I am, sir.

Q Are you familiar with the manner in which they were processed both before and after October of 1973?

A I am,sir.

Q Could you explain to the Court and jury what that procedure was?

A Briefly, 1965 through 1970, the application was processed by officers whose primary function was inspection of incoming cargo and passenger levels, and they were processed on a standby basis, so to speak.

Q Does that mean one of their secondary duties was to work on these petitions?

A Correct, sir.

In approximatel, 1970 the volume became so great that they assigned a special unit to do nothing but handle the relative visa petition. In conjunction with that, they established what they call an expedite desk whereby the petitioner, the U. S. citizen, in effect, or the beneficiary, could walk into the office, present the document with the birth certificate and a marriage certificate, and receive an immediate approval

Actually, what happened was the officers processing the application noticed that on two or three occasions this one petitioner kept appearing and filing petitions.

Q What happened? What happened as a result?

MR. FLEMING: I thought this was about

procedures, if your Honor please.

THE COURT: Yes. I think it is not proper to get into any improprieties that might have been performed by anyone else. We are trying these defendants here.

MR. KINGHAM: We won't, your Honor.

Q Following that, what took place, Mr. Guthrie? What was the next procedure that was set up after the expedite desk?

A As I say, prior to that the application was processed onthe strength of the application and the documents. In October of 1973 it was decided to call in both the U. S. citizen petitioner and the alien beneficiary to interview and establish that they were in fact living together.

Q Was thatthen called the I-130 program?

A Yes.

Q In October of 1973 and, indeed, prior to that time were you in charge of that program?

A I had been in charge of it briefly from 1965 through '68. I left the program and I came back in October of 1972.

Q Have you been continuously assigned as the supervisor of the I-130 program since October, 1972?

A I have, sir.

Q That's your present job, is it not, sir?

A Correct.

Q Did you take part of the establishment of the interview program in October, 1973?

A I did, sir.

Q How many interviewers at that time were assigned to that duty?

A Ten.

Q Were they given certain instructions as to how to proceed?

A They were, sir.

Q What procedure was established, Mr. Guthrie?

A The officers were instructed to question the petitioner and beneficiary separately, after swearing them in and advising them of the purpose of the interview. In questioning them separately regarding their life together, both before and during the marriage, we were pretty much able to determine whether or not they were in fact living together at that particular time.

Q Were the interviewers --

MR. FLEMING: Your Honor, I ask that that be struck, the last portion.

THE COURT: The jury will disregard the

last part which states whether or not the investigation was successful.

(Continued on next page)

Q Mr. Guthrie, were the interviewers empowered to approve or disapprove the petitions themselves?

A They were, sir.

Q If they did not approve the petition what procedure was established to be followed next?

A There were several actions they could take. They could pass it right on to an investigator, who looked into the marriage further, they could make a determination that additional documentation was needed and transfer it out on that particular basis, or as you say, they could approve it.

Q Are you familiar with the term green card?

A Yes, sir.

Q What is a green card?

A The green card that everybody refers to is a form I-151. It's a card that indicates an alien had been legally admitted to the United States.

Q After the approval of an I-130 petition and the issuance of a green card how long would the alien have to wait in order to apply for citizenship?

A Married to a U. S. citizen, three years, sir.

Q And if he were not married to a U. S. citizen?

A Five years.

MR. KINGHAM: Your Honor, may I read to the jury from part of Government's Exhibit 1 in evidence?

THE COURT: You may.

MR. KINGHAM: Thank you.

Ladies and gentlemen, reading from Government's Exhibit 1 in evidence:

(Mr. Kingham read from Government's Exhibit 1 in evidence)

Q Mr. Guthrie, the person who signs this form is the petitioner, is that correct?

A Correct, sir.

Q That is the United States citizen?

A Ordinarily, yes.

Q In the spouse case.

A Right, sir.

Q Calling your attention to block 24, with respect to the beneficiary applying for a visa at an American consulate, would you explain what that means?

A Briefly, if you are born in the Western Hemisphere you cannot adjust status in the United States, you must proceed out of the United States and pick up an immigrant visa at a U. S. consulate abroad.

If you were born in the Eastern Hemisphere and legally admitted to the United States you may apply

for adjustment here in the United States, there is no need to go out to a consulate and obtain an immigrant visa, in effect, you are issued the green card here in the United States, the theory being that if you were born --

MR. FLEMING: I object to that, your Honor.

THE COURT: Sustained.

Q Does block 24 have a space for the information at which consulate the beneficiary will apply for a visa if he is required to do so, to go outside the United States?

A Yes, sir.

Q That is what block 24 is for, is that correct?

A Yes, sir.

MR. KINGHAM: No further questions.

CROSS-EXAMINATION

BY MR. FLEMING:

Q Mr. Guthrie, my name is Fleming and Mr. Sprizzo and I represent Gene Chu.

You testified about interviews of the spouses in connection with what you call the I-130 proceeding or I-130 procedures, is that correct?

A Correct, sir.

Q Am I correct they are interviewed individually, that is, say the husband first and then the wife second?

A Correct, sir.

Q And out of each other's presence?

A Correct, sir.

Q Am I correct that if they are represented by counsel, by a lawyer, the lawyer can appear with the husband and with the wife when they are questioned?

A Correct, sir.

Q So that the Immigration and Naturalization Service, if either of the spouses is represented by an attorney and he appears with them, the Immigration and Naturalization Service knows that he is appearing with them as their lawyer?

A Correct.

Q Did you help devise the I-130 interviews?

A Yes, sir.

Q Am I correct that the individuals would be asked, for example, what the color of their shower curtain was?

A Correct.

Q What time they came home last night?

A Correct.

Q What color dress the wife had on last night?

A Correct, sir.

Q How many windows in the apartment?

A Correct, sir.

Q Am I correct also that in the situation where the husband says he came home last night at 6:30 and the wife says he came home at 8:30 the interviewer is authorized to find a contradiction and refer the matter to investigation?

A No, not on one discrepancy, one minor discrepancy, no, sir.

Q If the interviewer finds there are discrepancies he can refer it to an investigator?

A He might, sir, yes.

Q Those discrepancies could have to do with what dress the wife had on or what the color of the shower curtain is or how many windows in the apartment, is that correct?

A Normally speaking, there would be five or six discrepancies.

Q Five or six discrepancies?

A That's right.

Q Upon reference to the investigator, the investigator then takes over the matter, and conducts a further investigation to determine whether or not the petition should be granted?

A Not granted; whether ornot there is a fraud

factually. The petition can only be approved by the travel control officer and the examiner.

(Continued on next page)

Q If the investigator determines there is no fraud then is it correct that then the petition would be granted?

A It would be returned to us for reconsideration.

Q If the determination was there was nothing fraudulent about the marriage the petition would be granted, is that correct?

A Could be, yes, sir.

Q Does the Immigration & Naturalization Service have the authority to deny permanent residence to an alien who is married to an American citizen where there is no fraud?

A No, sir, not ordinarily, not if they are in fact married.

Q Am I correct that if the Immigration & Naturalization Service determines that the alien applicant or beneficiary and the American citizen are properly married then the Immigration & Naturalization Service must grant permanent residence to the alien?

MR. KINGHAM: Objection, your Honor.

THE COURT: Sustained.

MR. FLEMING: I didn't hear the objection.

THE COURT: That is contrary to the testimony. He has indicated it's not just the fact of marriage, but

the good faith.

MR. FLEMING: That is what I am getting at.

THE COURT: That wasn't your question though. You may rephrase it.

Q If the Immigration & Naturalization Service determines that it is a good faith marriage between the alien beneficiary and the American citizen spouse am I correct that the Immigration & Naturalization Service Must grant permanent residence to the alien?

A Once we determine that they are living together we must approve the I-130 petition. As I explained earlier, it's a two-step operation.

MR. FLEMING: May I just have a yes?

MR. KINGHAM: Your Honor, I don't believe that can be answered yes.

THE COURT: I don't believe it can be answered yes.

Q Is it your testimony that if the alien beneficiary and the American citizen are not living together that as a matter of fact means that they cannot be granted permanent residence?

A We may deny the petition, sir.

Q It becomes discretionary?

A Correct.

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Q Because in your determination the marriage is not bona fide, is that right?

A Right, sir.

Q I ask the question again:

If you determine that the marriage is bona fide and in good faith must you grant residence?

A We must approve the petition.

Q Is it the practice of the I-130 group to put petitions on the shelf to see whether or not the marriage will last?

A No, sir.

Q Have you ever said, Mr. Guthrie, with regard to petitions for permanent residence, in substance, "Put it on the shelf and maybe they will leave each other"?

A No, sir.

Q Have you, Mr. Guthrie, ever received any complaints or heard of complaints about the conduct of your investigators in questioning alien beneficiaries and their spouses?

MR. KINGHAM: Objection, your Honor.

THE COURT: Read the question, please.

(Question read.)

THE COURT: Sustained.

MR. FLEMING: I have nothing further.

MR. CONCANNON: No questions, your Honor.

CROSS EXAMINATION

BY MR. BARRY:

Q Mr. Guthrie, does the approval of the I-130 make you a legal permanent resident alien?

A No, sir.

Q There are further steps, are there not?

A Yes, sir.

MR. BARRY: I have no further questions.

THE COURT: Redirect?

MR. KINGHAM: Just one, your Honor.

REDIRECT EXAMINATION

BY MR KINGHAM:

Q What are those other further steps, Mr. Guthrie?

A As I pointed out earlier, you must either proceed and go forward to a consul and pick up your immigrant visa or your status must be adjusted here in the United States.

MR. KINGHAM: No further questions, your Honor. Thank you.

THE COURT: May I ask one question.

In your answer you seem to draw a distinction between approving a petition and granting residency. What is the difference that you were trying to define

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there?

THE WITNESS: The petition, your Honor, establishes the relationship. The beneficiary might be denied residence for other reasons.

THE COURT: All right. Thank you.

THE WITNESS: Not related to the petition.

MR. BARRY: Your Honor, may I just ask one more question, please?

THE COURT: You may.

RECROSS EXAMINATION

BY MR. BARRY:

Q Does the Immigration, Mr. Guthrie, have any different procedure with people of Chinese blood?

A No, sir.

Q Do they require, Mr. Guthrie, a blood test in case of Chinese?

A They might on occasion, but they do on other cases also, Counselor.

Q Even on white race?

A Yes, sir.

Q Even if you have a marriage certificate, a birth certificate?

A No. They don't in Chinese cases either.

Q Isn't it a fact, Mr. Guthrie, that the Immigration

MR. KINGHAM: At this time the Government would offer into evidence and ask to read from Government's Exhibits 50 and 51 for identification, offer them as 50 and 51 respectively. They are stipulations.

MR. FLEMING: I signed them. I have no objection.

THE COURT: You may read from it.

MR. KINGHAM: Your Honor, with respect to Government's Exhibits 50 and 51, reading first from Government's Exhibit 50:

"It is hereby stipulated and agreed by and between the United States of America by Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, T. Barry Kingham, Assistant United States Attorney, of counsel, and the defendant Gene Loy Chu, by his attorney Peter Fleming, Jr., as follows:

"1) Gene Loy Chu is an attorney at law who was admitted to practice on September 28, 1956 before the Courts of the State of New York. He is also permitted to practice before the United States Department of Justice, Immigration & Naturalization Service, Board of Immigration Appeals."

Your Honor, the remaining parts of the

stipulations I ask to read now. They relate to documents which will be offered in evidence as the trial proceeds.

THE COURT: You want to read them now?

MR. KINGHAM: I would like to read them for the record so the record. Paragraph 2 of Government's Exhibit 50 reads:

"Gene Loy Chu's signature, written by him, appears on the following documents as indicated:

"Government's Exhibits 2-A, B and D, Government's Exhibits -A, B and F, 16-A, B and D, 24-A, B and F, 32-A, B, F and G, 41-A, B and F.

"3) Gene Loy Chu's signature, written by him, appears on the following documents:

"Government's Exhibits 34, 35, 36, 37, 43 and 44.

"4) Gene Loy Chu's signature. written by him, appears on the following documents:

"Government's Exhibits 33 and 42."

Reading from Government's Exhibit 51, another stipulation between the United States and counsel for the defendant Gene Loy Chu:

"1) The following Government's exhibits are file copies of letters retained in the regular course

of business of the Immigration Service. The phrase 'cc' before the name Gene Loy Chu and his address reflects that a copy of the letters was sent to him. Government's Exhibits 3, 4, 5, 10, 11, 17, 25, 26, 27, 28.

"2) The following Government's Exhibits were received by the Immigration Service at the date and time indicated by the stamp which is placed there in the regular course of business of the Immigration Service:

"Government's Exhibits 2-A, 9-A, 16-A, 24-A, 32-A, 41-A, and their contents, and Government's Exhibits 34, 35, 36, 37, 43 and 44."

Your Honor, those exhibits will be offered during the course of the trial.

(Government's Exhibits 50 and 51 were received in evidence.)

xx MR. KINGHAM: May I ask Mrs. Shirley Moy, the Chinese interpreter, to step up.

(Shirley Moy, was duly sworn as official Chinese interpreter.)

MR. KINGHAM: Your Honor, may I qualify Mrs. Moy?

THE COURT: You may. Is she going to be a

witness in the case?

MR. KINGHAM: No. I will qualify her as the interpreter.

THE COURT: Swear her in.

- -

S H I R L E Y M O Y , called as a witness, having been first duly sworn, testified as follows:

THE COURT: Unless the defendants are willing to stipulate her qualifications --

MR. FLEMING: I am sure she is qualified. I stipulate her qualification as an interpreter. I just want to know her place of employment.

MR. KINGHAM: May I qualify the witness, your Honor, with a few questions?

THE COURT: Unless all defendants are willing to stipulate her qualifications.

MR. CONCANNON: Again, there is no question of her qualifications, but I as well would like to know by whom she is employed.

THE COURT: It is stipulated that she is qualified. You may merely ask her about her employment.

BY MR. KINGHAM:

Q By whom are you employed at the present time?

A I am a free-lance interpreter. At the present

time I have been employed by the Federal Court.

MR. FLEMING: We have no objection.

The defendant Chu has no objection.

MR. CONCANNON: No objection.

MR. BARRY: No objection, your Honor.

MR. KINGHAM: The Government calls Wun Chiu Fan.

- -

W U N C H I U F A N , called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Mr. Fan, do you speak and understand any English?

A A little bit.

Q What is the language that you normally speak at home and during your daily life?

A I use Cantonese.

Q Is that a dialect of the Chinese language?

A Yes.

Q Mr. Fan, when did you arrive in the United States?

A In the year 1972.

Q Do you recall what month?

A September.

Q Where did you come from?

A I originally came from Hong Kong, and from Hong Kong I went to Japan, and I board the ship in Japan and went to Los Angeles.

Q Did you work on the ship?

A Yes.

Are you a citizen of Hong Kong or of China?

A China.

Q Did you jump ship in Los Angeles in 1972?

A Yes.

Q When did you come to New York?

A After I jumped ship, and then I came by train three days later to New York.

Q After you came to New York in 1972, where did you live, Mr Fan?

A First on Henry Street.

Q Is that in Manhattan?

A Yes.

Q Did you thereafter live at 40 Ludlow Srreet in Manhattan?

A Yes.

Q Where did you work at that time?

A I worked in that one, Lee Sing Sportswear, the

Chinese call it Hung H Lik Sen.

Q Was that a sewing factory or sportswear factory?

A It is a sewing factory. I just worked there as a cutter.

Q How long did you work there, sir?

A Approximately half a year.

Q After that where did you work?

A I worked in a restaurant in New Jersey.

Q After you arrived in New York, did there come a time when you met a man named Gene Loy Chu?

A Yes.

Q Do you recall when it was that you met him?

A Approximately in July, in the year 1973.

Q Do you see Mr. Chu in the courtroom?

A I saw him.

Q Would you point him out, sir?

A That one with the glasses and with the tie, red, blue and stripes.

MR. KINGHAM: Indicating the defendant Chu, your Honor.

THE COURT: The record may so reflect.

Q Where was it that you met Mr. Chu?

A In his office at Division Street.

Q Is that in Chinatown, sir?

A Yes.

Q Can you describe what Mr. Chu's office looked like?

A His office is in the shape of a rectangle, and there was a book case, book shelves on one side, and chairs on the other side for visitors. He has a working desk in the middle.

Q What floor of the building was the office on?

A According to the Chinese way of counting, it is the second floor.

Q Was there a secretary?

A No.

Q Was there a waiting room?

A Yes.

Q When you first met Mr. Chu in his office, was there anyone else present?

A I and another friend. He introduced him to me.

Q What was your friend's name?

A Last name, Chung.

Q Was there a conversation among you, Mr. Chu and your friend Chung?

A He told -- first he introduced us, and then he told the attorney that I had been arrested by the

Immigration and I would like to look for somebody to get married.

Q Who said that?

A My friend.

Q What did the attorney say?

A And then the attorney used very simple English words to ask me for my name, my address and my age.

Q Did you respond?

A Yes.

Q In what language?

A Cantonese.

Q What did the attorney say after that?

A He expressed consent.

Q Was there any further conversation?

A He also asked me whether I had any money.

Q What did you say?

A I said yes.

Q What did he say then?

A I asked him approximately how much.

Q Did he reply?

A Yes.

(Continued on next page.)

Q What did he say?

A Approximately $2000.

Q What did you say to that, sir?

A I said I had the money, but I have to return home to discuss it with my family.

Q What did you do after that conversation?

A He asked me when can I get the money, and I said "Tomorrow."

Q Did you then leave the office?

A Yes, I left his office.

Q Did there come a time when you went back to the office?

A The next day.

Q Was anyone with you?

A Yes, my brother. In Chinese, that's my cousin. He went with me.

Q What was his name?

A He is called Fan Chung.

Q Is he the same man who had gone with you the day before?

A No, it is not the same one.

Q Who was at the lawyer's office when you went back the next day?

A The lawyer was there.

Q Was there anyone else there other than you, Fan Chung and the lawyer?

A No.

Q Was there a conversation?

A I counted the money and gave him the money, and I asked for a receipt, and he said he coulnd't give me any receipt.

Q How much money did you give him?

A $2500.

Q Where did you get it?

A Fan Chung, he lend it to me.

Q Did Fan Chung say anything at that meeting?

A No.

Q How old is he, sir?

A About 60-something, 64, 65 years old.

Q How long was that meeting in Mr. Chu's office?

A Approximately five minutes.

Q After you gave Mr. Chu the money, did he say anything to you?

A He said to come up to his office at 6 o'clock that evening.

Q Did you do that?

A Yes.

Q Did anyone go with you?

A No.

Q What did you do?

A I went up to his office.

Q What happened?

A I saw a black woman and two American girls, two white girls, they were there.

Q Do you know the name of the black woman?

A At that time I didn't know.

Q Do you see that woman in the courtroom?

A I saw her.

Q Would you point her out?

A That's the one with the orange colored clothes with the earrings and with the glasses.

MR. KINGHAM: Indicating the defendant Jean Fong, your Honor.

THE COURT: The record may so reflect.

Q Did you have a conversation with that woman at that time?

A She greeted me.

Q In what language?

A She used English.

Q What did she say after the greeting?

A She asked me whether I was going to see this Chu lawyer, and I said yes.

Q Did she say anything else?

A She said "Are you trying to look for a girl to get married? One of these two girls, maybe Tracy, is going to be that girl."

Q Did either of the girls say anything to you outside the office?

A No.

Q Did there come a time when you went inside the lawyer's office?

A Yes.

Q Who went inside?

A The few of us, we went in together.

Q Was the lawyer inside?

A He was there.

Q Was there a conversation among the people who were in the office?

A Yes.

Q What was said?

A First the attorney introduced me to that Jeannie Fong and in turn Jeannie Fong introduced me to Tracy and Frances.

Q By Jeannie Fong, do you mean the woman you pointed out in court?

A Yes.

Q Did anyone say anything after the introduction?

A Yes. The lawyer say that this is the girl that you are going to get married to, and if any problem arises, to look for Jeannie Fong's help.

Q Was anything else said?

A And then he also said that we must find a place in order to get married, and I told him that I didn't have an apartment, and then it was said that Tracy had an apartment in the Bronx.

Q Was anything else said after that?

A Then after the conversation, Jeannie Fong went with us for the blood test.

Q How long did the meeting take in the lawyer's office? How much time did you spend there?

A Approximately half an hour.

Q What did you do after that?

A Then we went to Jeannie Fong's place there, and then we went for the blood test.

Q Do you recall where Jean Fong's house was?

A 160 something numbers, I can't remember the exact numbers, but it was on Allen Street.

Q Is that in Manhattan?

A Yes.

Q Who went to Jeannie Fong's house with you?

A Jeannie Fong with that Tracy and that Frances.

Q How long did you stay there?

A Approximately ten minutes.

Q Then what did you do?

A Then we went to a doctor's place located in the corner of 11th Street and Allen Street. There there was a government building. We went in to have our blood test.

Q Did you have your blood taken?

A Yes.

Q Who went for the blood test?

A Tracy and Jeannie Fong.

Q After you had the blood test taken, where did you go, sir?

A Then I went to the Bronx to Tracy's apartment.

Q Do you recall where that was?

A I think it was Valentine Avenue.

Q How long did you stay at Tracy's apartment?

A Approximately 20 minutes to half an hour.

Q What did you do there?

A To have a look at the place and then have soda, a bottle of soda, and I left.

Q Did Jean Fong go to Tracy's apartment with you?

A No.

Q After that day did you see Jean Fong again?

A Yes.

Q When was that, sir?

A A few days later. I went to look for her to help to find -- to get the blood test result.

Q Did you obtain the blood test result?

A Yes.

Q Did you speak with Jean Fong at that time?

A Yes.

Q What was said?

A I asked her when I will be registered to get married with Tracy, and she told me that Tracy has no birth certificate.

Q What did you say?

A And then I asked her what should I do, and she said she has already made a call and they are going to call Puerto Rico and have them send the paper over.

Q What happened after that?

A Later I went to her place later again just to see whether everything was in order to get registration for marriage.

Q Where did you go?

A I went to Jeannie Fong's place.

Q Did you have a conversation with her at that time?

A Yes.

Q What was said?

A I asked her about this thing concerning about Tracy's papers, have the papers arrived, and I asked her when we can have the registration for marriage, and I also asked her to call Tracy to come down.

Q What did she say?

A And so I went there a few times, and it didn't work, so at one time Tracy's sister was there, and since Tracy hasn't got the papers, so we wondered whether that would work.

Q Where was Tracy's sister when you met her?

A In Jeannie Fong's place.

Q Who introduced you to Tracy's sister?

A Jeannie Fong introduced me to her, saying that Mildred was Tracy's sister.

Q Was anything else said?

A Then we had a discussion and when everything was agreed, then I went with Tracy's sister Mildred to have blood test.

Q Where did you go for the blood test with Mildred?

A That hospital located on 14th Street, I think somewhere between First and Second Avenue.

Q Who went with you?

A Mildred and Jeannie Fong.

Q Following the blood tests, Mr. Fan, what did you do?

A Then we went to City Hall to register for marriage.

Q Do you recall what day it was that you went to City Hall to register?

A Sometime in August.

Q Let me show you, Mr. Fan, what has been marked Government's Exhibit 18 for identification. Would you look at that and tell me if that refreshes your recollection as to what day it was that you went to City Hall to register?

A Yes, it is August 3.

Q What year, sir?

A The year 1973.

Q Mr. Fan, do you recognize that document, which is Government's Exhibit 18 for identification?

A Yes, I recognize it.

Q What is it?

A It is for the marriage.

Q Does your signature appear on that document?

A Yes.

Q Do you know who filled that document out?

A I can't recall whether it was Mildred who filled it in or Jeannie Fong.

Q Where was the document filled out?

A At the City Hall, the place where registration --

Q Who was present when it was filled out?

A Jeannie Fong and Mildred.

Q Was that your application for a marriage license?

A Yes.

MR. KINGHAM: Your Honor, Government's Exhibit 18 for identification is offered as Government's Exhibit 18.

MR. CONCANNON: No objection, your Honor.

MR. FLEMING: No objection.

(Government's Exhibit 18 was received in evidence)

MR. KINGHAM: May I pass this to the jury, your Honor?

THE COURT: You may. Are you going to have much more direct examination?

MR. KINGHAM: I have.

THE COURT: I have a verdict from the jury in the other case. I think this might be an appropriate time to recess until tomorrow morning, unless you are going to have only a brief additional amount of time.

MR. KINGHAM: No, your Honor. I do have more, and I would have no objection to recessing when the jury is finished looking at the document.

(Pause)

THE COURT: We are going to recess now until 10 o'clock in the morning. Don't discuss the case in the meantime with your fellow jurors or anyone else. Have a good evening.

(Court adjourned)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Richard T. Guthrie	61	65	72	73
Shirley Moy	78			
Wun Chiu Fan	79			

EXHIBIT INDEX

Government	Identification	In Evidence
1		57
50,51		77

UNITED STATES OF AMERICA

v. 76 Cr. 439 (WCC)

GENE LO' CHU, et al.

May 5, 1976
10:00 a.m.

(Trial resumed)

- - -

(In open court; jury present)

W U N C H I U F A N , resumed.

DIRECT EXAMINATION CONTINUED

BY MR. KINGHAM:

Q Mr. Fan, on August 6, 1973, were you married to Mildred Miranda?

A Yes.

Q Where did the marriage ceremony take place?

A At City Hall.

Q By City Hall do you mean the big building that's next to the courthouse here?

A Yes.

Q Who was present at the marriage?

A My friend Chang, Mildred, Jeannie Fong and a friend of Jeannie Fong. I believe he was Mildred's friend.

Q Do you know who was the witness on the papers for the marriage?

A Jeannie Fong.

MR. KINGHAM: Your Honor, at this time the government would offer into evidence Government's Exhibit 19.

MR. FLEMING: I have no objection, your Honor.

MR. CONCANNON: No objection.

(Government's Exhibit 19 was received in evidence)

MR. KINGHAM: Your Honor, may I read from Government's Exhibit 19?

THE COURT: You may.

MR. KINGHAM: This is the license to marry for Wun Chiu Fan and Mildred Miranda. The date stamp is 73 August 3. That is August 3, 1973, 10:40 a.m.

On August 6, 1973 at 10:40 a.m. for the date of the marriage between Wun Chiu Fan and Mildred E. Miranda, New York, in the presence of Mrs. Mary A. Fan, 169

Allen Street, New York City, 10002,zip code, for the signature of witness.

Q Mr. Fan, let me show you what have been marked as Government's Exhibits 21A and 21B for identification.

Do you recognize those pictures?

A Yes, I recognize them.

Q Do you know when they were taken?

A What do you mean by when?

Q Do you know what day they were taken?

A I was married that day.

Q Who is in the pictures? Are they a fair representation of the people who were present?

A Yes.

Q Who is in those pictures?

A Myself, Mildred, Jeannie Fong and that friend of Mildred's.

MR. KINGHAM: Your Honor, Government's Exhibits 21A and 21B for identification are offered as 21A and B.

MR. FLEMING: Mr. Chu has no objection, your Honor.

MR. CONCANNON: No objection.

(Government's Exhibits 21A and 21B were received in evidence)

Q Mr. Fan, in these pictures, which one of the young ladies is Mildred Miranda?

A That's the one. This one.

Q Is that the lady with the short hair?

A Yes.

Q Who is the young lady with the long hair?

A A friend of Mildred.

MR. KINGHAM: Your Honor, may I pass these to the jury?

THE COURT: You may.

MR. FLEMING: If your Honor please, I think one of them is standing right next to Mr. Fan, maybe that would be an easier way to identify them, rather than by hair.

Q Is the person standing next to you in the picture Mildred Miranda, the woman you married that day?

A Yes.

Q Mr. Fan, after the marriage ceremony, where did you go?

A Went to the lawyer's place.

Q Is that to Mr. Chu's place?

A Yes.

Q Who went with you?

A 113

A Jeannie Fong with Mildred and myself.

Q Was Mr. Chu there?

A He was there.

Q Was anyone else present?

A I believe it was just the few of us.

Q Was there a conversation at that time?

A Yes.

Q What was that?

A In order to answer the questions on the application form, he asked me certain questions, such as my age.

Q Did you give him the answers?

A Yes.

Q Did anything else happen at that time?

A I saw the lawyer give some money to Mildred, and in turn Mildred gave some money to Jeannie Fong.

Q Was it cash or check?

A Cash.

Q I show you what's been marked Exhibit 16B for identification and ask you if you recognize that, Mr. Fan?

A Yes, I know about this.

Q What is that?

A It is the application form.

Q Did you see anyone sign that application form?

A Mildred.

Q When was it that she signed it?

A At that time, at that place.

Q Following the wedding?

A Yes.

Q How long did you stay at Mr. Chu's office on that occasion?

A Approximately half an hour.

Q What did you do after that?

A I left. I went back.

Q Where did you go?

A I went home.

Q Where was home?

A 40 Ludlow Street.

Q In Manhattan?

A Yes.

MR. KINGHAM: Your Honor, at this time the government would offer in evidence Government's Exhibits 16A through 16F for identification as 16A through F that were the subject of the stipulation.

THE COURT: Will you identify them for the record, please?

MR. KINGHAM: I will, your Honor, in a moment, if I may

(Pause)

MR. FLEMING: We have no objection, your Honor.

(Government's Exhibits 16A through 16F, inclusive, were received in evidence)

MR. KINGHAM: For the record, your Honor, the subject of the stipulation was that Government's Exhibit 16A and its contents, which are B through F, were received at the immigration service on the date stamped at the top, which is August 10, 1973, at 9:04 a.m.

There is a further stipulation which I read that the signature on Government's Exhibit 16A, 16B and 16D is the signature of Gene Loy Chu, written by him.

THE COURT: What do the papers consist of?

MR. KINGHAM: The papers consist of documents which were forwarded to the immigration service on the date indicated as part of a package, according to the cover letter.

THE COURT: A petition to classify for issuance of an immigrant visa?

MR. KINGHAM: That's right.

If admitted, I will read the cover letter

to the jury so the jury is aware of what the documents are.

THE COURT: They are received.

(Continued on next page)

T2 am

MR. KINGHAM: From Government's Exhibit 16-A in evidence, on the letterhead Gene Loy Chu, Attorney at Law, 9 Division Street, New York, New York 10002, August 8, 1973, addressed to the U. S. Department of Justice, Immigration & Naturalization Service, at 20 West Broadway.

(Mr. Kingham read from Government's Exhibit 16-A in evidence.)

BY MR. KINGHAM:

Q Calling your attention, Mr. Fan, to Government's Exhibit 16-B in evidence -- for the record, your Honor, 16-B is the Form I-130 which was submitted with this letter -- the information in block 16-D, reading from Government's Exhibit 16-B in evidence;

"Last address at which you and your spouse resided together, Bronx, New York, USA, 4-H 2185 Valentine Avenue, August 1973 to the present," and block 21, Address in the United States where beneficiary will reside, 2185 Valentine Avenue, Bronx, New York, and address at which beneficiary is presently residing, 4-H 2185 Valentine Avenue, Bronx, New York, USA,"

calling your attention to that information concerning yourself, Mr. Fan, did you ever reside at 2185 Valentine Avenue in the Bronx?

A No.

Q Did you ever tell Mr. Chu that you lived at that address?

A When he filled out the form at that time it was MIldred who told him everything.

Q Mildred who told him what? I didn't hear that. I am sorry.

A When they filled in the application form and where to fill.

Q Who gave that information to Mr. Chu?

A Mildred.

THE COURT: Did he ever tell Mr. Chy that he resided at 2145 Valentine Avenue in the Bronx?

THE WITNESS: No, I did not say that.

Q After that meeting in Mr. Chu's office on August 6, 1973 did you have occasion to speak with him again?

A Yes.

Q Was that in person or on the telephone?

A We have discussion on the telephone also and I also have been up to his office to look for him.

Q Do you recall any specific conversations which you had with Mr. Chu?

A I cannot recall the exact time or date, but I

remember I have been to look for him.

Q Was that within the two or three months following your wedding?

A Yes.

Q What conversations did you have with him concerning that period?

A I called him up, I went to look for him to ask him whether there is any news from the Immigration concerning the application form, and I also informed him that Mildred did not want me to stay over there.

Q What did he say?

A He said that "You both should try to stay together because if the Immigration investigators came to investigate then you might -- they might arrest you and you would be in jail."

Q Did there come a time when you went to his office with Mildred?

A Yes.

Q Do you recall when that was?

A The day when the Immigration was going to interview us.

Q Was it that day or before that day?

A That day, the same day.

Q Do you recall what date that was?

A I cannot recall the exact date, but I think it was in January 1974. That's the day that Immigration had the questioning.

Q Let me show you what is Government's Exhibit 3514 for identification. Would you look at that and tell me if that refreshes your recollection as to the date that you went to Immigration.

A It's January 18, 1974.

Q Before you went to Immigration that day did you have a conversation in Mr. Chu's office?

A Yes.

Q Who was present?

A Mildred and the lawyer Chu.

Q What was said?

A He pretend to ask questions concerning my birth date and also Mildred's birth date and he asked me certain questions.

Q Do you recall what the questions were?

A The age, where we were staying and where I was working.

Q What answers did you give him?

A I answered him about my birth date and also Mildred's address, where I was staying.

Q Did you tell him you were staying at Mildred's

address?

A On that day I did not say.

Q Did there come a time when you went to the Immigration offices?

A Yes.

Q Was that here in Manhattan?

A Yes, over there. Yes, Manhattan.

Q What happened when you went there?

A The Immigration official asked us questions.

Q Who was with you when the questions were asked?

A The Immigration official, an interpreter and that lawyer Chu.

Q Was Mildred with you when you were asked questions?

A No, they ask me first. It was separate questioning and she was waiting outside.

Q Do you recall what questions you were asked?

A He asked me for my age and then for my place of residence and my place of employment and he asked questions concerning the weddings and the locations of the place where I worked.

Q Did you tell the truth?

A Some were the truth and some were not.

Q What did you say that was not true?

A I did not stay in that address.

Q Which address is that?

A That address at Valentine Avenue at the Bronx.

Q How long did the interview take, Mr. Fan?

A Approximately half an hour.

Q After your interview was finished what happened?

A Then it was Mildred's turn.

Q How long was her interview?

A Also approximately half an hour.

Q After her interview was finished what happened?

A I asked the lawyer how did the interview went and he say that both of our answers does not match and "I don't think you will pass."

Q What did you say?

A And then the Immigration official came out and told us that the answers were not correct and that he wanted to have another interview.

Q What did you do?

A I wanted to go for the questioning again but that lawyer advised me not to. He say "The first time since you cannot answer it correctly it will be more difficult for you to pass the second time, the questions will be more difficult," and he asked me to abandon the thought.

Q What did you say to him?

A He asked me not to go again for interviews to answer the questions and asked me to sign a paper so that we would not have to go for the interview.

Q And did you sign a paper?

A Yes.

Q Was that a paper prepared by the Immigration official?

A Yes, I believe so. They let me sign it.

Q What happened after you signed that paper?

A Then they send me to the highest floor in the Immigration building and then later on they said they are not going to arrest me and let me out.

Q Where did you go after you were released from Immigration?

A On that night I returned to that lawyer's office.

Q That is Mr. Chu's office?

A Yes.

Q Who was there?

A Mildred and that lawyer.

Q Did you have a conversation with them?

A Yes. First I asked him, I said since that marriage is not going through, can he handle my divorce case with Mildred.

Q What did he say?

A Then he asked me for some money and I told him that I have already spent a few thousand dollars on this marriage with Mildred and since this is not working, it's not going through, can he handle my divorce case without charging me, and he disagreed, he wanted some money, and I agreed.

Q How much?

A $300.

Q Did you subsequently get divorced?

A Yes. I gave him the money and then later he said the divorce case went in.

Q Do you remember when it was that you were divorced?

A I cannot recall the date.

Q Let me show you what has been marked Government's Exhibit 23 for identification. Would you look at that and tell me if that refreshes your recollection as to the date of your divorce.

A It's July 19, the year 1974.

(Continued on next page.)

Q Between the date of your marriage in July, 1973 -- or rather August, 1973 and the date of your divorce in July, 1974, did you make any payments to Mildred?

A Yes.

Q How much?

A From September to January I paid her monthly $300.

Q Did you ever live with her?

A No.

Q Did you ever have sexual relations with her?

A No.

Q After you were divorced in July of 1974 did you seen Gene Loy Chu again?

A Yes.

Q When was that and where?

A I was being investigated by the Immigration office some time last August, in the year 1975, and after the investigation I have seen that lawyer.

Q Where did you see him?

A In Chinatown, right downstairs of his working office building.

Q Did you have an appointment or did you meet him by chance?

A By chance.

Q Did you have a conversation with Mr. Chu?

A Yes.

Q What was that conversation?

A I asked him, I said, "Because of the false marriage, the Immigration is going to investigate my case," and I asked him whether he knew about it, and he said he knew about it.

Q Was there any other conversation?

A Then I asked him what should be done, and he said nothing much happening, and he said, 'Did the Immigration say anything," and I said, "Yes. I have told them what I have told them before."

Q After that meeting on the street, did you see him again?

A Yes.

Q When was that?

A The last two months.

Q Where?

A Also in Chinatown, the Kam Doh Theatre, in front, by the traffic light.

Q Was that by chance or did you have an appointment at that time?

A By chance I met him.

Q Did you have a conversation with Mr. Chu at

that time

that time?

A Yes.

Q What was that?

A I asked him whether there was any news from the Immigration, and he said none.

Q After that meeting on the street and before you came to this courtroom yesterday, did you see or have any contact with Mr. Chu?

A No.

Q Mr. Fan, you were a citizen of China; is that right?

A Yes.

Q Are you facing deportation proceedings?

A I don't know when they are going to deport me. I have been arrested by Immigration.

MR. FLEMING: I did not hear the last part of the answer.

(Record read.)

Q Have ny promises been made to you by Immigration or by any other Government agency as to what will happen in your deportation proceeding?

A The Immigration office told me that I have to tell the truth, and if I tell the truth, the United States

Government will not prosecute me, but if I tell lies, then the United States Government or any other Government officials will prosecute me.

Q So you may be prosecuted for perjury if you lie, is that your understanding?

A Yes.

Q Has anyone made any promises about your deportation proceeding?

A No.

MR. KINGHAM: No further questions, your Honor.

CROSS EXAMINATION

XX BY MR. FLEMING:

Q Is it Mr. Fan or Mr. Fan?

A F-a-n, Fan.

Q Do you understand me, Mr. Fan, in English?

A You asked me for my name. That I know.

Q Do you understand me in English?

A A little.

MR. FLEMING: May I question him without the interpreter for a moment, your Honor?

THE COURT: Yes. You may try.

Q Did you testify that you had been promised that if you told the truth you would not be prosecuted? Do you understand me?

A (In English) No.

THE COURT: He said, "No."

Q Using the interpreter now, did you testify that you had been told by the Immigration & Naturalization Service that if you told the truth you would not be prosecuted?

A Yes.

Q Was it Mr. Hittelman that told you that?

A He said that and also the other lawyer, Kingham.

Q The two men sitting at this table?

A Yes.

Q They both told you that?

A Yes.

Q Did they tell you who prosecuted people for perjury in this country?

A This I do not understand.

Q Did Mr. Kingham explain to you that he was an Assistant United States Attorney?

A Yes. I know that he told me he was a Government attorney.

Q Did Mr. Kingham tell you that Mr. Kingham and the office he worked for had the power to prosecute you for not telling the truth?

A He told me, just told me that if I do not tell

the truth, the Government will prosecute me for perjury.

Q And he told you he represented the Government?

A That is what he told me, but I do not know whom he represented.

Q I am sorry, Mr. Fan, but is it your testimony on your oath that you do not know ghat Mr. Kingham represents the United States Government?

A He told me that he was the Government lawyer, and I cannot tell him that he is not.

Q How many times have you spoken to Mr. Kingham?

A Four times.

Q How many times have you spoken to Mr. Hittelman?

A He came to look for me individually one time.

MR. FLEMING: If your Honor please, may the witness be instructed to give the answer to the question as asked?

THE COURT: Yes.

Q The question was, how many times have you spoken to Mr. Hittelman?

A Once.

(Continued on next page.)

3B

Q Did you testify yesterday about conversations with Jean Fong in which you asked her "'When I will be registered to get married with Tracy,' and she told me that Tracy had no birth certificate"?

Did you testify to that conversation?

A Yes.

Q Did you testify that Jean Fong introduced you to Mildred?

A Yes.

Q And told you that Mildred was Tracy's sister?

A Yes.

Q Did you testify that you and Jean Fong and Mildred then had a discussion?

A Yes.

Q Wasn't that discussion in the English language?

A Yes.

Q My name is Peter Fleming, Mr. Fan, and together with Mr. Sprizzo I represent Gene Chu, the attorney.

A Yes.

Q Am I correct that you were born in mainland China?

A Yes.

Q You were born in 1948?

A Yes.

Q You lived there until 1966?

A Until 1968.

Q During that period of time China was ruled by the Communists?

A Yes.

Q And in 1966 did you attempt to escape to Hong Kong?

A Tried to escape to Hong Kong in the year 1968.

Q Did you try to escape to Hong Kong in 1965 and was it unsuccessful in 1965, and were you returned to mainland China?

A Yes.

Q So you attempted to escape in 1965 when you were caught, is that correct?

A Yes.

Q Am I correct that when you were caught you were returned to mainland China and you were placed at forced labor?

A No, worked at the same way.

Q Did you remember writing a letter to the immigration service on March 12, 1974, asking them to let

you stay in this country, the United States?

A Yes.

Q Do you remember writing in thatletter that because you disagreed with the social norm and the way of living in Red China and because all of your relatives, your mother and brothers, were already living in Hong Kong, you smuggled to Hong Kong for the first time in 1965?

A Yes.

Q And didn't you write that it was unsuccessful and you were brought back to reform by forced hard labor?

A Yes.

Q That was true, was it not?

A Yes.

Q Because of that you, in 1968, attempted to escape to Hong Kong again?

A Yes.

Q And this time you were successful?

A Yes.

Q And then you wanted to come to the United States?

A Yes.

Q And you took a ship?

A Yes.

Q And you worked on that ship?

A Yes.

Q What work did you do on that ship?

A I don't know what you call it in English but in China it is called water hand. I don't know whether in English you may call it the crew.

Q What job did you have at the crew?

A Work from the deck, below, all over the ship. It is a very low kind of crew.

Q Cleaning and scrubbing?

A Yes.

Q Working hard?

A Yes.

Q Then when that ship came to Los Angeles, you left the ship, is that right?

A Yes.

Q You came to New York?

A Yes.

Q By the way, you came by train?

A Yes.

Q Am I correct that you have cousins, an uncle, a brother and a sister-in-law --

A Yes, my aunt, a lot of cousins and two elder

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brothers, nly one mother in Hong Kong.

Q Your mother is in Hong Kong but you have cousins, an uncle, a brother and a sister-in-law in New Yor ?

A Yes.

Q And you met with them and you settled down in New York, is that right?

A Yes.

Q This was in the fall of 1972?

A Yes.

Q You got a job?

A Yes.

Q Tell me again, what was your job?

A First I have told you that I worked in the Hong Kong factory, in English it was known as Lee Sing or Lee To and I worked as a cutter.

Q How many hours a day did you work?

A Eight.

Q Then what was your next job?

A Work in restaurant.

Q In New Jersey?

A Yes.

Q What was your job in the restaurant?

A Waiter.

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Q Wait on tables?

A Yes.

Q Did people order in English?

A Yes.

Q How many hours a day did you work in the restaurant?

A Nine hours, that's including mealtime.

Q Were you working in the restaurant when you met Mr. Chu?

A No. In the factory.

Q How much money were you making?

A At that time when I worked in the factory, I made about $160 a week.

Q Did they withhold your taxes?

A Yes.

Q So how much did you take home?

A $120-something.

Q A week?

A Yes.

Q Did you hold that job after you married Mildred?

A I worked for a little while and then I didn't work there.

Q Where did you work after you worked at the

factory?

A In the restaurant in New Jersey.

Q How much did you earn at the restaurant?

A $100 a week.

Q $100 a week?

A Yes.

Q Did they withhold your taxes?

A Yes.

4A

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Q What was your take-home pay?

A I don't know, I don't have a definite amount, because with the tips, I do not know how much.

Q During the time you were working at the restaurant am I correct you were paying Mildred about $300 a month?

A Yes.

Q That was after you had married her?

A Yes.

Q And you kept paying her $300 a month until Mr. Chu told you that you should withdraw your petition?

A I paid her till the immigration questioning, that interview in January 1974. Then I did not pay her.

Q It was at that interview in January 1974 that Mr. Chu told you to give up your application, is that correct?

A Yes.

Q Mr. Fan, inthe I-130, Mr. Chu asked you questions about this the day you were married, is that right?

A I do not know what I-130 is about.

Q He asked you questions about where you lived and so forth?

A Yes.

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Q Did you testify that Mildred told him apartment 4H 2185 Valentine Avenue?

A Yes.

Q Were you sitting there when Mildred said that?

A Yes.

Q Did you tell Mr. Chu that you, Mr. Fan, were not going to live at that address?

A At that time I did not tell him. Then later I told him.

MR. FLEMING: I asked one question, if your Honor please. I take it the answer is that he did not.

THE COURT: The answer is that he did not.

MR. FLEMING: May we be clear on it, your Honor, ask the question again?

Q The day you were married you did not tell Mr. Chu that you were not going to live at that address, am I correct?

A No.

Q But you say you told him that later?

A Later, when Mildred would not let me stay there. I called him to let him know.

Q And you are certain of that?

A Yes.

Q Do you remember, Mr. Fan, being brought in as a witness in a grand jury, what was told you was a grand jury, in this building?

A Yes.

Q Do you remember Mr. Lavin?

A I do not know him.

Q Do you remember giving testimony in what is called the grand jury?

A Yes.

Q And do you remember that those questions were asked by a man named Mr. Lavin?

A I know I have come before the grand jury, but I do not know who that person's name was.

Q Do you remember being asked this question and giving this answer in the grand jury?

MR. FLEMING: This is at page 6, Mr. Kingham.

Q "Q Did you ever tell him, Mr. Chu, that you were not living with Mildred, your wife?"

And your answer in the grand jury under oath:

"A I did not."

A Actually I did not.

MR. FLEMING: I don't know what he means.

Q Do you mean that you did not give that answer?

A Can you put the question again?

Q I will read the question and the answer. Question by Mr. Lavin.

"Q Did you ever tell him, meaning Mr. Chu, that you were not living with Mildred, your wife?

"A I did not."

Did you give that testimony in the grand jury?

A Yes, I did, I did answer that way.

Q And that was under oath?

A Yes.

Q And that was the truth, was it not?

A Yes.

MR. FLEMING: Your Honor, what is your schedule? Is there any particular time --

THE COURT: We will take a break in just a moment, not right now.

Let me ask you this: Did you or did you not ever tell Mr. Chu that you were not living with Mildred?

THE WITNESS: Yes, I told him.

THE COURT: You did tell him that?

THE WITNESS: Yes.

THE COURT: When did you tell him that?

THE WITNESS: After our marriage, when

Mildred did not want me to stay with her.

THE COURT: Did you understand the question and answer that was just read to you from your grand jury testimony?

MR. FLEMING: Your Honor, I object to that question. First, I don't understand whether your Honor is asking whether he understood my question or whether he understood thequestion in the grand jury

THE COURT: All right. I will withdraw the question. You may proceed.

MR. FLEMING: Could it be stated for the record that that grand jury appearance, your Honor, was on October 2, 1975.

MR. KINGHAM: That's correct.

MR. FLEMING: Will Mr. Kingham agree that I have read correctly from the transcript?

MR. KINGHAM: I will agree that the portion that was read was correctly read.

BY MR. FLEMING:

Q Were you also interviewed by Mr. Hittelman?

A Yes.

Q And Mr. Hittelman wrote a statement out for you?

A He asked me, I asnwered, and he wrote.

Q Did you ever tell Mr. Hittelman that you had told Mr. Chu that you were not living with Mildred?

A I cannot recall exactly. I did not say.

Q Mr. Fan, when did you first remember that you had told Mr. Chu that you were not living with Mildred?

A Can you repeat the question?

THE COURT: Let me phrase it.

At the time you testified before the grand jury did you then remember that you had told Mr. Chu that you were not living with Mildred?

THE WITNESS: Yes, I did say that.

Q Mr. Fan, am I correct that you wanted to get married because you wanted to live in the United States and you wanted to live in the United States legally, isn't that right?

MR. KINGHAM: Objection, your Honor.

I will withdraw the objection.

A Yes.

Q And you met Mildred, is that right?

A Yes.

Q And this is Mildred, you have your arm around MIldred in this picture?

A Yes.

Q And that was the day you were married?

A Yes.

Q Am I correct that you liked Mildred?

A I don't know how to answer this question.

Q You wanted to live with her, didn't you?

A Yes.

Q And when you met her and when you married her you hadn't known her very long, had you?

A Not very long.

Q But you liked her, didn't you, then?

A Yes.

Q And you wanted to live with her?

A Yes.

Q And you wanted to support her?

A Yes.

Q As a matter of fact, you did give her $300 a month?

A Yes.

Q And she took it?

A Yes.

Q In fact, you used to go over and try to visit her and ask her to stay, didn't you?

A Yes.

Q And she wouldn't let you, would she?

A Yes.

Q And you went over on more than one occasion?

A Yes.

Q Because you wanted to live with her?

A Yes.

Q And you paid her $300 a month

A Yes.

Q As a matter of fact, is it fair to say, Mr. Fan, that when this picture was taken -- look at the picture -- when that picture was taken am I correct that you were happy?

A Yes.

THE COURT: Is this a good time for a break?

MR. FLEMING: Yes, your Honor. Any time is all ritht with me. I just didn't know if your Honor had a schedule.

THE COURT: All right. We will take a ten-minute break.

(Recess.)

BY MR. FLEMING:

Q Mr. Fan, going back to August 6, 1973 when you were married, do you have that date in mind?

A Yes.

Q After the marriage you went back to Mr. Chu's office?

A Yes.

Q Did you testify when Mr. Kingham was questioning you that you saw Mr. Chu give money to Mildred?

A Yes.

Q And did you testify that in turn Mildred gave money to Jean Fong?

A Yes.

Q Is it your recollection that you actually saw money on that day?

A Yes.

Q Is it your recollection that you saw Mr. Chu give Mildred money on that day?

A Yes.

Q Is it your recollection that you saw Mildred give Jean Fong money on that day?

A Yes.

Q Is it your recollection that Mildred gave Jean Fong money in the presence of Mr. Chu?

A Yes.

Q Again, do you remember Mr. Hittelman of the IMS wriging down a statement for you to sign after you answered questions?

A Yes.

Q Do you recall signing the statement?

A Yes.

Q Was it read to you before you signed it?

A Yes.

Q Do you recall that in that statement at page 4 you said, "I saw Gene Chu give Mildred an envelope"?

A No, I recalled that I said that I saw the lawyer who gave the money to Mildred and then Mildred gave the money to Jean Fong.

Q So is it your testimony that you told Mr. Hittelman that you saw the lawyer give Jean Fong money and you saw Jean Fong give Mildred money in the lawyer's presence?

A No. I did not say that. Maybe he made a mistake writing it down.

MR. FLEMING: Could I have the question repeated, your Honor?

THE COURT: Yes.

(Record read.)

THE WITNESS: I did not state it that way.

Q Is it a fact, Mr. Fong, that all you told Mr. Hittelman on August 21, 1975 was that on the day of your marriage -- "On the day Mildred and I got married, Jean, Mildred and I went back to Gene Chu's office, which is on Division Street in Chinatown" --

THE COURT: Excuse me. This has got to be translated. I am sure the tranlator cannot get that long a question straight. Break it up, if you will, please.

MR. FLEMING: Yes, sir. Excuse me.

Q In connection with Mr. Chu giving anyone any money, isn't it correct that you told Mr. Hittelman on August 21, 1974, "On the day Mildred and I got married, Jean, Mildred and I went back to Gene Chu's office, which is on Division Street in Chinatown"?

A Yes.

Q "I saw Gene Chu give Mildred an envelope"?

A I saw him take the money out from the envelope and count them.

MR. FLEMING: If your Honor please, I am sorry. I know it is difficult to interpret --

THE COURT: The question is whether or not he told the interrogator that.

THE WITNESS: Yes.

Q And that is all you told him, Mr. Hittelman, about mone passing?

A Yes.

THE COURT: Just to make this perfectly clear, did you say at that time that you saw Mr. Chu give Mildred an envelope?

THE WITNESS: Yes.

(Continued on next page.)

Q Did you say at that time that you saw Mr. Chu give Mildred money?

A I did say it.

Q Did you say at thattime that you saw Mildred give Jean Fong money?

A Yes.

Q And what you said was written down?

A Yes.

Q And it was read to you?

A Yes.

Q And it was read to you in Chinese?

A Yes.

Q And you signed it?

A Yes.

Q Before you signed it, was this read to you:

"I have read or I have had read to me the foregoing statement consisting of six pages"?

A Yes.

Q "I state that the answers made therein by me are true and correct to the best of my knowledge and belief and that this statement is a full, true and correct record of my interrogation on the date indicated"?

A Yes.

Q In fact you signed each of the six pages?

A Yes.

Q There came a time when you and Mildred were told that you would have to go to the immigration service for questioning, is that correct?

A Yes.

Q On the day you went for questioning, you went to Mr. Chu's office first?

A Yes.

Q And Mr. Chu was there and you were there and Mildred was there?

A Yes.

Q And Mr. Chu asked you questions?

A Yes.

Q And am I correct that Mr. Chu did not tell you how to answer the questions?

(Pause)

THE COURT: The question is ambiguous because you asked am I correct that you didn't do something. I don't know what a yes or no answer would mean. Let me ask it. Did Mr. Chu tell you or suggest to you how to answer the questions?

THE WITNESS: At that time, no.

Q Am I correct that this was the only time

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that Mr. Chu prepared you to go down and answer questions at immigration?

MR. FLEMING: May I have a yes or no answer to that, your Honor?

THE COURT: Can you answer the question yes or no?

THE WITNESS: I can't.

Q How many times were you and Mildred interviewed about your marriage by immigration?

A Once.

Q This was the day that you went to Mr. Chu's office first?

A Yes.

Q Mr. Chu went with you to the Immigration and Naturalization Service, is that correct?

A Yes.

Q Did Mr. Chu tell the immigration people in your presence that he, Mr. Chu, was acting as the attorney for you and Mildred?

A I don't know what he said. I don't know.

Q Did you tell them that Mr. Chu was your attorney?

A I believe that immigration didn't ask me that question, but what he said to them I don't know because

I don't understand.

Q Mr. Chu sat with you when you were interviewed?

A Yes. He sat right next to me.

Q Then you left and they interviewed Mildred?

A Yes.

Q Mr. Chu stayed with Mildred?

A Yes.

Q Am I correct that after that Mr. Chu told you that immigration didn't believe you and you should withdraw your petition?

A Yes.

Q Didn't he in fact tell you that he didn't believe you either?

A This he didn't say.

Q He told you to withdraw your petition?

A I did not know what the petition was about, but I know he advised me not to answer those questions, yes or no questions.

Q Did he tell you to give up the idea of obtaining permanent residence?

A Yes.

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Q How long were you detained at the immigration service on that day?

A You are asking about the interviews or just the time they kept me back?

Q Did you testify that after the interviews and after you refused to answer any more questions --

A Yes.

Q -- that immigration detained you?

A Yes.

Q When did they release you, when did they let you go?

A I went upstairs and they said they are not going to detain me and so I left.

Q The same day?

A Yes.

Q Then you went down to Mr. Chu's opfice?

A That day, afternoon.

Q You went down to Mr. Chu's --

A I should say evening.

Q Did you go down to Mr. Chu's office on the evening of the day you were questioned or on the next evening?

A The same day.

Q And that is when you asked for a divorce?

A Yes.

Q And that was because Mr. Chu had told you that you could not go foward with your application for residence?

A Yes.

Q Did immigration then tell you that you were going to be deported?

A Yes.

Q And did you make an application for political asylum?

A That was in the latter part, when the immigration arrested me later, rearrested me.

Q The interview was in January, is that right?

A Yes.

Q Then in March they arrested you?

A Yes.

Q And you had another lawyer and you asked them to give you political asylum?

A Yes.

Q And you told them that you were afraid if you had to go back to Hong Kong?

A Yes.

Q And they refused you, the immigration service said no, they would not allow you to stay in the country?

A YEs.

Q That was sometime in March of 1974?

A Yes.

Q And then they were going to deport you?

A Yes.

Q Then they held it up because of some kindof a court proceeding?

A Yes.

Q And that again was in March of 1974?

A Yes.

Q Then in August 1975 Mr. Hittelman talked to you?

A Yes.

Q Did he tell you that he had already talked to Mildred?

A Yes.

Q Did he tell you things that he said Mildred had said?

A Can you repeat the question, please?

Q Did Mr. Hittelman tell you things that he said Mildred had said to him?

A Yes.

Q Did Mr. Hittelman tell you that you, Mr. Fan, were in a lot of trouble?

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A He told me that I have to tell the truth, otherwise the United States Government will prosecute me.

Q Did he tell youthat you were in a lot of trouble?

A No.

Q Did he tell you you would be prosecuted by the United States Government if you didn't tell the truth?

THE COURT: He just got through saying that.

MR. KINGHAM: Asked and answered.

Q Then he asked you questions?

A Yes.

Q Did Mr. Hittelman say to you "You never had sexual intercourse with Mildred, did you?

A Yes.

Q And you said yes, that you had not?

A Yes, I told him that.

Q And he questioned you in that way?

A Yes.

Q Did Mr. Hittelman tell you that immigration wanted to take a case on an attorney, Mr. Chu?

A Yes.

MR. FLEMING: May I have just one moment,

your Honor.

THE COURT: Yes.

MR. FLEMING: I just have one more question.

(Pause)

Q I believe I have just one more question, Mr. Fan. I want to direct your attention to when you spoke to Mr. Chu about marrying.

Isn't it true that Mr. Chu told you that the only way you could become a resident by marriage was if you really meant to get married?

A Will you please repeat the question again.

THE COURT: It may be re-read.

(Question read)

THE COURT: I think the question is objectionable on the ground of vagueness. Obviously you can't become a resident without getting married. That isn't the issue. The issue is whether he intended to live together as husband and wife.

This question is objectionable. I think it can only lead to confusion. Rephrase the question, please, or withdraw it.

Q Didn't Mr. Chu tell you in words or substance that if you were going to get married and hoped to obtain residence that you had to be serious about living

with the woman you married?

A No.

MR. FLEMING: I have nothing further.

THE COURT: Any cross, Mr. Concannon?

MR. CONCANNON: Yes, your Honor, I have a few questions.

CROSS-EXAMINATION

BY MR. CONCANNON:

Q Mr. Fan, my name is Thomas Concannon and I represent Miss Jean Fong.

Do you recall the day that you married Mildred?

A Yes.

Q About what time of day did the wedding ceremony take place?

A Approximately between the time 10 o'clock to 12 o'clock, around that time.

Q It took place in the building right next door to this one, did it not?

A Yes.

Q In a chapel in the Municipal Building?

A Yes.

Q About how long did you wait around before the ceremony took place in the Municipal Building?

A Approximately half an hour.

Q Who were the people who were present again?

A Jeannie Fong, Mildred, myself, a friend of Mildred's, and also my friend.

Q While you were waiting were you all silent or were you conversing?

A We did not talk.

Q Everybody sat silently?

A They talk with their friends, the girl talk with themselves, and I talk with my friend.

Q The ceremony lasted about how long?

A I would say ten minutes. There was a master of ceremony there and it takes about ten minutes. It goes fast.

Q The ceremony was in English, was it not?

A Yes.

Q You indicated you were happy on that occasion, were you not?

A I cannot answer the question.

Q I withdraw it.

After the wedding ceremony itself you did not go immediately to Mr. Chu's office, did you?

A Yes.

Q You stopped before you went to Mr. Chu's office at a restaurant, didn't you?

A I believe I went to his office first.

Q After you went to his office, could it have been then that you went to the restaurant for the wedding party?

A That day I recall I did go to a restaurant, but I cannot recall whether it was after going to the office or before going to the office.

Q At the restaurant Jean Fong, Mildred and the witnesses to the wedding accompanied you, did they not?

A Yes.

Q That restaurant was right over in Chatham Square, behind the Court House?

A Yes.

Q And you sat next to Mildred?

A Yes.

Q You conversed at the table?

A Yes.

Q With each other?

A We did not have much to say. We did not talk much. I just ask them what they want to eat.

Q You took the trouble to go to the restaurant and didn't bother to talk to each other?

MR. KINGHAM: Objection, your Honor, argumentative.

THE COURT: Sustained.

Q Mr. Fan, do you recall testifying before the grand jury October 2, 1975?

A I recall.

Q Was your testimony true and complete at that time?

A According to my recollection, this is what I remembered, I told them.

Q Was your testimony complete?

MR. KINGHAM: Objection, your Honor, asked and answered.

THE COURT: I don't know what that means. Obviously you only answer the questions that are asked.

MR. CONCANNON: I will rephrase it, your Honor.

Q Do you recall your testimony concerning the payment of the money or the passing of an envelope in Mr.

Chu's office?

A Yes.

Q Was your testimony concerning the payment of the money or the passing of the envelope complete, so far as you recall?

MR. KINGHAM: Objection, your Honor. Same objection.

THE COURT: Sustained.

Q Do you recall that when you answered the questions concerning the payment of the money that you made no indication whatsoever that any money was paid to Jean Fong?

MR. KINGHAM: I object to this, your Honor. I have no objection to having the testimony read to the witness either to refresh his recollection or to find out what the questions were, but obviously he only answered the questions that were asked. I object to this proceeding.

THE COURT: Sustained.

MR. CONCANNON: I have no further questions.

THE COURT: Mr. Barry.

MR.BARRY: I have no questions, your Honor.

THE COURT: Any redirect?

MR. KINGHAM: Brief redirect, your Honor, if I may.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. KINGHAM"

Q Mr. Fan, when you were asked questions by Mr. Fleming, who is the gentleman at the end of the table, do you recall that he asked you questions about statements you had made to Mr. Hittelman?

A Yes.

Q Do you recall the exact words that you said to Mr. Hittelman?

A I told him in Chinese and they translated into English, but I do not know how they translated.

Q As you sit here today do you recall the exact words that you used?

A I recall.

Q Do you recall Mr. Fleming asked you some questions about what you saw in Mr. Chu's office after the wedding?

A Yes.

Q With respect to the payment of money?

A Yes.

Q What did you see?

A I saw him holding an envelope containing money.

Q Who had the envelope?

A The lawyer took it and gave it to Mildred.

Q Did he give the envelope to Mildred or the money to Mildred?

A Inside the envelope there were money.

Q Did you see the money?

A I saw, I saw it.

Q How many times, Mr. Fan, did Mr. Chu, the lawyer, prepare you and Mildred for your Immigration interview?

A The day before we went to the Immigration.

Q Was that the only time?

A Before he did ask me again, but at that time he only question me alone, I did not go there with Mildred.

Q The time that you went before did he ask you the same kinds of questions that he asked you the day you went with Mildred?

A Yes.

Q Do you recall Mr. Fleming asked you some questions about your testimony before the grand jury?

A Yes.

Q And he rread to you a question and an answer?

A Yes.

Q And the question was, from page 6, Mr. Fleming, "Did you ever tell him that you weren't living with Mildred, your wife," and the answer was

"I did not."

Do you recall having been asked that question in the grand jury and having given that particular answer?

A Will you please repeat the question again.

Q Do you recall having been asked that question and having given that answer in the grand jury?

A Yes, I remember it.

Q When you gave that answer do you know what meeting you were talking about?

MR. FLEMING: Objection.

THE COURT: Overruled.

No. Rephrase the question. He hasn't said he was talking about a meeting.

Q In the grand jury you were asked other questions and gave other answers, did you not?

A Yes.

Q And you were asked questions about the various meetings that you had with Mr. Chu?

A Yes.

Q Do you recall whether the question that I read to you concerned a particular meeting?

A Which answer?

Q The question "Did you ever tell him that you weren't living with Mildred, your wife," and the anwer

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"I did not," did that refer to a particular meeting, if you recall?

A I cannot recall.

Q Let me show you what is Government's Exhibit 3525 for identification, and calling your attention to pages 5 and 6 of that exhibit, may I ask that the interpreter read this to you in Chinese, the two pages to which I have directed your attention, and when you have finished I will ask you a question about it.

(Pause.)

A I told him that I did not live with that girl. That was my answer. But that wasn't the answer to that question.

THE COURT: You haven't been asked a question. That will be stricken and the jury will disregard it.

MR. FLEMING: I think we need a concession from Mr. Kingham on that, if he is referring to what he just read, your Honor.

THE COURT: He has not asked a question.

MR. FLEMING: I don't think there should be an impression that what he just said is in what he just read. It is not.

THE COURT: I don't know what more I can do than to tell the jury to disregard it completely.

MR. FLEMING: I think we should have a concession from Mr. Kingham.

MR. KINGHAM: I will put a question, if I may, your Honor.

THE COURT: Yes, you may put a question. The jury will disregard this entire colloquy, plus the volunteered statement by the witness who had not yet been asked a question.

BY MR. KINGMAN:

Q Mr. Fan, having had this translated to you, does

that refresh your recollection --

A I remember.

Q -- as to whether the question that I read to you earlier referred to a specific meeting that you had with Mr. Chu?

A Yes.

Q Which meeting was that?

A I am not very clear about this question.

MR. KINGHAM: May we approach the side bar, please?

(At the side bar.)

MR. KINGHAM: Your Honor, I am almost finished with the witness. I don't want to prolong this unnecessarily. It is clear from the context of the grand jury testimony that the witness' answer as to whether he ever told the lawyer that he was not living with the woman was on the day of the preparation prior to going to Immigration.

I would request the Court's permission under the doctrine of completeness and because Mr. Fleming read the question and answer to the witness to be allowed to read from pages 5 and 6 of the grand jury testimony to show the trial jury that the question and answer which he gave must be a question and answer taken in the context of the other questions and answers he gave in the grand jury.

THE COURT: May I see the transcript?

MR. KINGHAM: Yes, your Honor. The question involved is at line 19 of page 6. I would request to read at least part of pages 5 and 6.

MR. FLEMING: It doesn't relate at all, Judge.

MR. SPRIZZO: The question is "Did you ever."

MR. FLEMING: What Lavan is trying to do is see whether Chu was telling him a lie. So he goes back to January. It doesn't relate to that meeting at all.

THE COURT: Yes, I am afraid I cannot permit it, because I think from the wording of the question and particularly from the preceding question, it is not at all clear that the witness was talking about a particular meeting only. The preceding question is, "Did Mr. Chu know that you didn't live together with Mildred?"

The answer is, "I assumed he knew it."

Then that is followed by the question, "Did you ever tell him that you weren't living with Mildred, your wife?"

And the answer is, "I did not."

I think under the circumstances I can't permit it.

MR. KINGHAM: All right, I will drop the line, your Honor.

(In open court.)

BY MR. KINGHAM:

Q Do you recall that when you were asked questions by Mr. Fleming earlier he asked you a question about a political asylum petition?

A Yes.

Q And he asked you if you had another lawyer in connection with that petition?

A Yes.

Q Who was that other lawyer?

A Thomas Soon. The Chinese say Sing Tai Soon.

Q Did Mr. Soon represent you prior to the time you met Mr. Chu?

A Yes.

MR. KINGHAM: No further questions, your Honor.

THE COURT: Any recross?

MR. FLEMING: Just one.

RECROSS EXAMINATION

XX BY MR. FLEMING:

Q Mr. Fan, Mr. Chy asked you and Mildred questions together only once; is that correct?

A This question I cannot answer yes or no.

MR. FLEMING: I have nothing further.

THE COURT: Mr. Fan, at the time you married Mildred did you intend to live with her as husband and wife after the marriage?

THE WITNESS: Yes.

THE COURT: That is all, thank you.

MR. KINGHAM: May I ask a question based on --

THE COURT: Yes, you may.

REDIRECT EXAMINATION

BY MR. KINGHAM:

Q Mr. Fan, at the time you married Mildred, did you intend to have sexual relations with her?

MR. FLEMING: Objection. Entirely immaterial.

MR. CONCANNON: Objection, your Honor.

THE COURT: Overruled.

MR. FLEMING: I meant in respect to this case.

THE COURT: I think it is explanatory of perhaps my vague question.

MR. FLEMING: I understand, your Honor. I take exception to that, your Honor. Your Honor's question was very specific.

THE COURT: I am not sure it was understood what the expression as husband and wife meant. That is my point. That is why I am permitting this.

(Record read.)

THE WITNESS: Please repeat the question again.

MR. KINGHAM: May we have it reread?

(Record read.)

A I do not wish to answer this question.

THE COURT: You are directed to answer the question.

THE WITNESS: If you want me to answer, I had the intention of doing it, but the girl refused.

MR. KINGHAM: I have nothing further, your Honor. Thank you.

THE COURT: Anything further?

MR. FLEMING: We have nothing.

THE COURT: Thank you, Mr. Fan.

(Witness excused.)

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THE COURT: We will take our noon break now and com back at 2 o'clock.

(Jury not present)

MR. FLEMING: Your Honor, with all respect, it is very difficult to examine these people through an interpreter to begin with. I think there is substantial evidence from which anyone can infer that, at least a substantial understanding. But putting that aside, your Honor, there is a presumption of innocence here, and I do believe your Honor is showing partisanship in the questioning of this witness.

Your Honor's intention may be based upon the fact that he is a Chinese alien and he is being questioned through an interpreter, but with all respect, I think I questioned him very slowly and very carefully, and I in my judgment very clearly, and I think your Honor's interruptions and the questions that your Honor asked the witness indicated a partisanship on the part of your Honor. I think it is inappropriate.

THE COURT: We do have, as you have already observed, a difficulty in communicating with the witness who is not fluent in English. I asked a limited number of questions where I felt the questions and answers created an ambiguity, and I think it is important to get

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to the truth in this case --

MR. FLEMING: So do we

THE COURT: I think if you will consider my last question to the witness, the answer could only have helped the defendants substantially, and I can't think of any question that I asked the answer to which hurt the defendant.

MR. FLEMING: That may mean that there is more than a presumption of innocence in this case. If your Honor please, I asked a question as to whether Mr. Chu had given in words or substance particular advice when he first met him.

I thought it was a perfectly appropriate question, and your Honor wouldn't allow it even though the government itself had not objected to it.

I am only giving your Honor my own impression, with great respect, that there is some evidence of partisanship, and I object to it. I may be incorrect.

THE COURT: If you will re-read the record of your question, it contained an ambiguity in that your question was "Do you agree that Mr. Chu didn't do something."

A "yes" answer to that may mean he agrees that Mr. Chu did not do something; on the other hand

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a "no" answer might be intended to have the same meaning.

I htink the question was unfortunately ambiquous. I suggest that no attorney is infallible, just as no judge is infallible, and that if I think the question is so phrased that the answer can only confuse rather than lead to the exposition of truth, I am going to reserve the right to ask that the question be rephrased.

That is all I did in that instance, was to ask you to rephrase the question.

MR. FLEMING: Your Honor, on the question to which your Honor is referring, your Honor is quite correct. That was the one that started "Isn't it correct" with a sort of double negative and I withdrew the question and asked another.

The question I am referring to is I asked the fellow whether Gene Chu, when he first talked to him, I think he came in and talked to him about marriage, whether Gene Chu hadn't in fact told him that if he wanted to get married for the purpose of obtaining residence, he better be sure that he wanted to really get married.

THE COURT: The reason I stopped you there was because of your use of the word "married" at the end of the sentence. Obviously, in order to have any effect

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on a petition for a permanent residency, you must get married. That's not the question.

Was he serious about getting married? Of course he was serious about getting married. The question should have been, "Were you serious about living with the woman as man and wife."

MR. FLEMING: My question was "serious about getting married," and the very next question, if your Honor will accept my word, was to be, 'And that meant that you had to live with her?"

I have respect for the Court and I am just expressing what I perceive, and I may be entirely incorrect.

THE COURT: I have not the faintest notion about the guilt or innocence of these defendants, and I am going to try to conduct the court as equitably and as fairly to both sides as I possibly can. I assure you of that. But I am going to interpose when I feel a question which is asked can only lead to confusion.

The question that you asked was the kind that can only lead to confusion. I am not going to have the jury misled because of a confusing question.

MR. FLEMING: I take exception to that, your Honor. I don't think I have asked a misleading

question in this cross-examination. I think the record will disclose that.

I have been very clear and very precise with this witness, and my very next question after that one was intended to be "And that meant that you had to live together?"

THE COURT: You should have gone to the second question first because the first question, and I didn't know, of course, about the second, the first question could only lead to confusion. Obviously he had to be serious about getting married, and that question I think was an improper question. I will abide by that position.

I will see you at 2 o'clock.

(Luncheon recess)

AFTERNOON SESSION

(2.00 p.m.

(In open court, jury present.)

MR. KINGHAM: The Government calls Mildred Miranda.

- -

M I L D R E D M I R A N D A , called as a witness on behalf of the Government, having been first duly sworn, testified as follows;

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Miranda, I ask you to try to keep your voice up so that I can hear you back here. That way all the jurors will also hear you.

Are you a citizen of the United States?

A Yes.

Q Where were you born?

A Puerto Rico.

Q Have you ever been married?

A Yes.

Q When were you married?

A August 6, 1973.

Q What was your husband's name?

A Wai Chiu Fan.

A Chiu.

Q Did you see him here in the Court House this morning?

A Yes.

Q Is that the man who was your husband?

A Yes.

Q Before your marriage to Wan Chiu Fan in August of 1973, did you meet a person named Jeannie Fong?

A Yes.

Q Did you know her by any other name?

A Mamma.

Q Do you see that woman in the courtroom?

A Yes.

Q Could you point her out, please?

A The one with the glasses sitting over there.

MR. KINGHAM: Indicating the defendant Jean Fong, your Honor.

THE COURT: The record may so reflect.

Q How long before your marriage to Wan Chiu Fan did you meet Jean Fong?

A I don't remember.

Q Was it more than a month or so?

A Something like that, yes.

Q Where was it that you first met her?

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A I met her at her house.

Q Do you remember where that was?

A Somewhere on Allen Street.

Q Allen Street?

A Allen Street.

Q In New York City?

A Yes.

Q Who was with you when you met Jean Fong?

A There was Frances and Jeannette.

Q What is Frances' name?

A Frances Torres.

Q Who was Jeannette?

A She was just a friend of mine.

Q Miss Miranda, was there a conversation at the time you met Jeannie Fong among the people who were there?

A Yes.

Q What was that?

A Jeannette went to see if she could find a lawyer because she needed one because her husband was dead and she wanted to get some belongings from him, and we went over there to see if Jeannie -- I mean if Mamma could provide a lawyer for her.

Q Did she speak to Jean Fong about that in your presence?

A Yes.

Q What did Jean Fong say?

A She recommended Gene the lawyer.

Q Prior to the day that you met Jeannie Fong, had you met the man who later became your husband?

A Yes.

Q Where was it that you met him?

A In 2185 Valentine Avenue.

Q In the Bronx?

A Yes.

Q At whose apartment?

A My apartment.

Q Who was living there with you at that time?

A My sister, Carmen Miranda, and Frances Torres.

Q Is your sister Carmen also known as Tracy?

A Yes.

Q Did there come a time when you met Gene, the lawyer?

A Yes.

Q When was that after the day you met Jean Fong?

A I think it was the day after or two days after.

Q There did you meet him?

A At his office.

Q Do you see that man in the courtroom?

A Yes.

Q Would you point him out, please?

A He is the one next to Jeannie.

MR. KINGHAM: Indicating the defendant Chu, your Honor.

THE COURT: The record may so reflect.

Q Who went to Gene the lawyer's office?

A Jeannette and I.

Q Was Jean Fong with you?

A No.

Q Can you describe what the office looked like?

A An office with books.

Q How many rooms were there?

A To his office?

Q Yes.

A There was only one.

Q Was there a secretary in thered?

A No.

Q Were there chairs and a desk?

A Yes.

Q When you went to Gene the lawyer's office with Jeannette, was there any conversation at that time?

A I think we went to Brooklyn to get her husband's things.

Q Who went to Brooklyn?

A Jeannette, Gene the lawyer and I.

MR. CONCANNON: I am sorry, your Honor, I did not hear the answer.

(Record read.)

THE COURT: Speak up just a little.

Q Was there any conversation at the time you went to Brooklyn?

A No.

Q Did you come back from Brooklyn to Manhattan at any time?

A No, I don't think so.

Q After the time when you went to Brooklyn, did you see Gene the lawyer again?

A Yes.

(Continued on next page.)

Q When was that?

A I think it was two days after that.

Q Where did you see him that time?

A At his office.

Q Who was present?

A Jeannette and I.

Q Was there a conversation on that occasion?

A Yes.

Q Who said what?

A Well, I asked Gene the lawyer if after my sister Tracy would get married, if he could find somefor me, that I wantedto also get married.

Q What did he say?

A He asked me for my birth certificate and told me that why don't I take my sister's place and get married with Chiu because he wanted to get married fast, and then that he will find somebody else for my sister.

Q What did you say?

A I told him okay, but I had to talk to Tracy about it first.

Q So what did you do?

A I called her up at his office and I asked her, and she said it was okay.

Q Did Gene the lawyer say anything else to you at that time?

A I don't remember. I think he was telling me about the money involved in the marriage, and things like that.

Q What did he tell you about the money?

A He told me that there was $3500 to get married and that he would give me 1500 the day that we would get married and from there on I would have to work it out with Chiu to see, you know, like monthly, 200, or whatever we decided on.

Q By "Chiu" are you referring to Wun Chiu Fan?

A Yes.

Q After you spoke with Tracy, did you say anything to the lawyer?

A Yes. I told him that Tracy said that it was okay.

Q What did he say?

A He said "All right."

Q After that day, when did you next see Jeannie Fong?

A I don't remember. Maybe the first day -- I mean the same day. I don't recall that.

Q Do you recall where it was that you saw her

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and what you did?

A Excuse me?

Q Do you recall where was that you saw Mon or Jean Fong and what you did?

A I don't understand.

Q Did there come a time when you went for some blood tests?

A Yes.

Q Who went with you?

A Jeannie, Chiu and I.

Q Where did you go?

A First they were going to take me to First Avenue in the projects, that there was a Chinese doctor there, but he wasn't there, so she took me somewhere else.

MR. FLEMING: Your Honor, can we be clear that the Chiu -- there is confusion here now because she called Mr. Fan "Chiu" and, of course, my client is named Chu too.

THE COURT: Yes. I think when she refers to Chiu she is referring to Mr. Fan.

MR. KINGHAM: I believe that is correct, your Honor.

THE COURT: When she refers to the defendant

Chu, she has referred to him as Gene the lawyer, I believe.

Is that correct?

THE WITNESS: Yes.

Q Is that how you knew those people at that time?

A Yes.

Q After the date of the blood tests, did there come a time that you went to City Hall, Miss Miranda?

A Yes.

Q By City Hall, I refer to this big building that's next to the courthouse. Do you understand that?

A Right.

Q Do you remember what day it was that you went to City Hall?

A I think it was August 3.

Q Who went there with you?

A Jeannie, Chiu and I.

Q What did you do there?

A We applied for a marriage license.

Q Let me show you, Miss Miranda, what is Government's Exhibit 18 in evidence. Would you take that and look at it, please? Do you recognize that document?

A Yes.

Q What is that?

A That's my marriage license.

Q Is that the application for the license?

A Yes.

Q Do you know who filled that out?

A I think it was Jeannie.

Q By Jeannie do you mean Jean Fong?

A Yes.

Q Does your signature appear on that document?

A Yes, it does.

Q At the bottom of the document where it says, reading, your Honor, from Government's Exhibit 18:

"Future address, enter exact future address after marriage, if known, Mr. and Mrs. Wun Chiu Fan, 169 Allen Street, No. 5D, New York City 10002."

Do you know who lived at that address?

A Jeannie.

Q Jean Fong?

A Yes.

Q After you filled out that document on August 3, do you recall where you went?

A No. I think we had lunch, or something like that.

Q Where were you living at that time?

A I was living in Brooklyn.

Q With whom?

A With Jeannette.

Q And then on August 6, 1973 were you married to Wun Chiu Fan?

A Yes.

Q Again at City Hall at the same place?

A Yes.

Q I show you what are Government's Exhibits 21A and 21B, if you will take those, Mrs Miranda.

Do you recognize the people in those pictures?

A Yes.

Q Do you know when those pictures were taken?

A The same day I got married.

Q Who is in the pictures?

A There is Chiu, there is Jeannie, Imgard, and I.

Q Who was Imgard?

A She was just a friend.

Q Do you know where she lived?

A She lived in 2185.

Q Valentine Avenue?

A Yes.

(Continued on next page)

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Q Do you know who took those pictures?

A A friend of Chiu's.

Q Were all those people present at the wedding?

A Yes.

Q After the wedding ceremony what did you do?

A We went to Chu's -- to Gene's office.

Q Gene the lawyer?

A Gene the lawyer's office.

Q Who went there?

A Jeannie, Chiu and I, and Imeard.

Q What happened there?

A We told Gene the lawyer that we were married and he gave me the money.

Q How much did he give you?

A $1500.

Q Cash or check?

A Cash.

Q What did you do?

A I counted the money, then I turned around and I gave Jeannie 200.

Q Jeannie Fong?

A Yes.

Q Did you have any conversation in the office at that time?

A We were just goofing on the marriage.

Q You were discussing the marriage, is that right?

A Yes.

Q Let me show you, Miss Miranda, what is Government's Exhibit 16B in evidence.

Do you recognize that document?

A Yes.

Q What is that?

A Well, this paper, they just gave it to me to sign it and that was it.

Q Who gave it to you to sign?

A Gene the lawyer.

Q When?

A I think it was the same day we got married.

Q Does your signature appear on that paper?

A Yes, it does.

Q The day of your marriage was what day?

A August the 6th.

Q Reading from Government's Exhibit 16B, block 3, where it says it was subscribed, meaning written, and sworn to on August 8, 1973, did you sign that paper on August 8?

A No.

Q Where were you on August 8, 1973?

A I was in Puerto Rico.

Q Did you see Gene Chu or Gene the lawyer, rather, on August 8, 1973?

A No.

Q When did you go to Puerto Rico?

A On August 6.

Q The day of your wedding?

A Yes.

Q Calling your attention to the information on this form -- by the way, was this form filled out when you signed it or was it blank?

A No, I think it was blank.

Q The information here where it says "Last address at which you and your spouse resided, 2185 Valentine Avenue from August 1973 to the present," the information where it says "Address where beneficiary" -- that is Wan Chiu Fan -- "will reside, 2185 Valentine Avenue," is that information true?

A About that he lived there?

Q Did he live there?

A No.

Q Did you live there with him together, the two of you, at that time?

A No.

Q Did you ever tell Gene the lawyer that you lived there together?

A No.

Q Whom did you go to Puerto Rico with on the day of your wedding?

A With my brother Diego.

Q How long did you remain there?

A About a week or two.

Q After you returned from Puerto Rico where did you live?

A I went to 2185 Valentine.

Q Valentine Avenue?

A Yes.

Q Who lived there with you?

A There was Frances Torres and my sister Tracy.

Q Did there come a time when they left?

A Yes.

Q Do you know where they moved?

A They moved to Brooklyn.

Q Did someone else move in?

A Yes.

Q Who was that?

A Raoul.

Q Is that Raoul Gonzalez?

A Yes.

Q Have you lived with him ever since?

A Yes.

Q Did Un Chiu Fan ever live w'th you at that address?

A No.

Q Did he ever come there?

A Yes.

Q How often?

A I think it was every month, to bring me my money.

Q How much money did you receive from him?

A 200 a month.

Q Miss Miranda, did there come a time when you received a notice to appear for an interview at the immigration service?

A Yes.

Q What did you do when you got that notice?

A I think I called Gene the lawyer and he told me to come over to his office.

Q Did you go?

A Yes.

Q Who went with you?

A I think it was Chiu and I.

Q By Chiu you mean Wun Chiu Fan. is that right?

A Yes.

Q Did there come a time when you were interviewed by the immigration service?

A Yes.

Q Do you remember the date, the exact date of that interview?

A No.

Q Let me show you what has been marked Government's Exhibit 3506 for identification.

Would you look at that and tell me if that refreshes your recollection simply as to the date on which you went to the interview?

A Yes.

Q What was that date?

A January the 18th.

Q Of what year?

A '74.

Q Between the date of your marriage in August of 1973 and the date of the interview in January 1974 how many times did you go to Gene the lawyer's office?

A Four or five times, maybe even seven.

Q Who went with you?

A Well, sometimes there used o be Raoul and I and Raoul, Chiu and I.

Q Do you recall what was said at each of those meetings?

A We talked about our marriage and going to immigration.

Q Do you recall in substance what was said at those meetings?

A They said that we had to prove to the immigration that we were really married and he had to be living in the house with me.

Q Who said that?

A Gene the lawyer.

Q Do you recall any specific converstaions when Raoul was present at the office with Gene the lawyer?

A Any conversations?

Q Any specific conversation during that period when Raoul was there.

Do you not recall, is that what your answer is? I am sorry.

A Some of it, like there might be one or two that I recall.

Q Please tell the Judge and the jury what you

recall.

A Well, Raoul would tell Gene the lawyer that if anything would happen to me that he would also, you know -- I don't know -- that nothing better happen to me, things like that, because he said something about that Chiu's brothers were looking for me to kill me.

Q Who said that?

A Gene the lawyer.

Q What did Raoul say to Gene the lawyer?

A He said that if anything happened to me that something was going to happen to him.

Q Do you recall any other specific conversation?

A No. After that it was all about the divorce.

Q What was the conversation about the divorce?

A We wanted to know how we were going to get divorced, how we were going to arrange it.

Q The day of your interview, January 18, 1974, where did you meet before going to the immigration office?

A In Gene's office.

Q Who met there?

A Chiu, Gene and I.

Q Do you recall what time of day it was?

A I think it was in the morning.

Q Was there any conversation there?

A Yes. Gent was telling us about -- or he was telling Chiu about that when we went to immigration he had to take my coat off, he had to be next to me, hold my hand, so that immigration would see that me and him were really married.

Q Do you recall any other conversation?

A No, I don't.

Q What did you do then after meeting at the office? Did you go to immigration?

A Yes.

Q Was that over at West Broadway here in New York City?

A Yes.

Q Who went over there?

A Gene the lawyer, Chiu and I.

Q What happened when you got there?

A They told us to sit down. Then they took Chiu inside a room to ask him questions first and when he came out I went in.

Q Where was Gene the lawyer while Chiu, your husband, was being questioned?

A He was inside the room with him.

Q Was he also present when you were being

questioned?

A Yes.

Q How long was your interview?

A I think about a half an hour.

Q Do you recall what happened during the interview?

A What do you mean, what happened? That they asked me questions.

Q Do you recall what you said to them?

A Yes.

Q What do you recall?

A Well, they asked me who was the first one of us to get up from bed and I answered that I was, Chiu answered that he did.

They asked us who make breakfast in the morning, through which way you let the water out in the bathroom.

Q Did you answer the questions truthfully?

A No.

Q What did you say that was not true, if you recall?

A Well, they asked me did I make dinner for Chiu that night and I said yes and at what time did he come home and I don't remember what I told them at that.

When they asked me if I made him breakfast in the morning, if we came over together, and I answer yes, that I made breakfast, and yes, that we both took a cab over.

(Continued on next page)

Q When you met at Gene the lawyer's office earlier that day did you and Chiu come together or separately to the office?

A We came separate. He met me there.

Q After your interview at Immigration, Miss Miranda, what happened, what did you do?

A We went back to Gene the lawyer's office and I asked him to have Chiu sign some papers to be separated or divorced.

Q Before you went to his office was there any conversation that you had with Gene the lawyer at the Immigration offices?

A Yes. The sent us upstairs to investigation and then I told Gene that I didn't want to go through with it any more.

Q What did he say?

A He said that he thought it was the best thing, but Chiu wanted to keep on.

Q What did you do?

A I didn't answer any more questions.

Q Did you have to sign a paper to that effect?

A Yes.

Q After that did you then go to Gene the lawyer's office again?

A Yes.

Q What was the conversation that time and who was there?

A Gene the lawyer, Chiu and I. I asked him about the -- to get divorced, to have Chiu sign some papers so that I could get divorced.

Q After that day did you see Gene the lawyer again?

A Yes.

Q Do you recall when that was, Miss Miranda?

A The exact date?

Q In general.

A No, I don't.

Q Did you subsequently get divorced?

A Yes.

Q Do you remember when it was that you got divorced?

A July 19th of '74.

Q 1974?

A Yes.

Q Between the date of your interview in January and the date of your divorce in July did you see Gene the lawyer?

A Yes.

Q Where was it that you saw him?

A At his office.

Q Who was there when you saw him?

A Raoul, Gene the lawyer and I.

Q Was there a conversation?

A Yes.

Q What was said?

A Well, we were talking about how --

MR. FLEMING: Objection as irrelevant, your Honor.

THE COURT: When is this meeting?

MR. KINGHAM: This is between, your Honor, the date of the Immigration interview and the date of the divorce in July of '74, and I am sure that your Honor will see that it's quite relevant.

THE COURT: Yes. Overruled.

Q What was the conversation, Miss Miranda?

A We talked to him about how we were going to do it, if he was going to arrange the divorce and he said yes.

Q Was there any other conversation?

A Yes. We talked about that Chiu would have to pay the divorce and that I would have to get the money for the plane ticket to go over there and to come back.

Q id Gene the lawyer say anything else, do you recall?

A He said that as long as I got the money, he would arr nge everything else.

Q nd you later obtained a divorce, is that correct?

A Yes.

Q Where did you go to obtain the divorce?

A To Haiti.

Q Who made the arrangements for that?

A ene the lawyer.

Q fter that, after you obtained your divorce in July of 1974, did you have any contact with Gene the lawyer?

A When I came back from Haiti I told him I was here. After that I haven't seen him again.

Q iss Miranda, have there been any promises made to you in connection with your testimony here today?

A Yes.

Q What promise is that?

A That I won't be prosecuted for the marriage, but if I lie I will.

Q so that you are subject to prosecution for perjury if you lie under oath, is that correct?

A Yes.

MR. KINGHAM: No further questions, your Honor.

MR. FLEMING: May I have a moment, your Honor.

THE COURT: Yes.

CROSS EXAMINATION

BY MR. FLEMING:

Q You now call yourself Miranda, is that correct?

A Excuse me?

Q Is it Miss Miranda?

A Yes.

Q My name is Peter Fleming and together with Mr. Sprizzo we represent Mr. Chu, the lawyer.

How old are you, Miss Miranda?

A 24.

Q That would make you about 20, 21 back in 1973?

A More or less.

Q Before you met Eugene Chu were you working?

A No.

Q You were living with did you say Jeannette?

A Yes, right.

Q Anyone else?

A No.

Q You met Mr. Chu with Jeannette, you went to Brooklyn, you came back, then you met Mr. Chu a couple of days later, is that correct?

A I don't understand.

Q You first met the lawyer, Mr. Chu, with Jeannette --

A Yes.

Q Jeannette's husband had died?

A Right.

Q And Mr. Chu was her lawyer?

A Right.

Q And you and Jeannette and Mr. Chu went to Brooklyn for some reason?

A Right.

Q And you came back, is that right?

A Right.

Q And a couple of days later you met Mr. Chu, the lawyer, again?

A Right.

Q At that time you asked Mr. Chu if he could arrange a marriage for you?

A Yes.

Q Am I correct that you were interested in having an apartment of your own?

A I'm I was interested in having an apartment of my own?

Q Yes.

A I had one.

Q But you were living with Jeannette, is that right?

A No, when I met Gene I was living at 2185. Then after that, when Gene -- when Jeannette got into her apartment, then me and Jeannette stood there.

Q When you say when you met Gene, who are you referring to?

A Gene the lawyer.

Q When you met Gene the lawyer were you living in an apartment with Jeannette?

A No, I was living in my own apartment.

Q You were living alone in your own apartment?

A Yes.

Q What was the address of that apartment?

A 2185 Valentine Avenue.

Q You were introduced to the person you call Chiu and you married him on August 6?

A Yes.

Q This contains an address, 4-H 2185 Valentine Avenue, is that correct?

A Yes.

Q Was that your address?

A At the time of the marriage?

Q Yes.

A No.

Q Did you give that address to Mr. Chu, the lawyer?

A No, he already had my address.

Q What address did he have?

A The one 2185. That's where I was living when I met him But when I got married, two or three days after I met Gene Jeannette got the keys to where she was living with her husband, then I moved in with Jeannette.

Q On the day you were married where were you living?

A With Jeannette.

Q At what address?

A In Brooklyn. I don't know the exact address.

Q But it was not at 2185 Valentine Avenue?

A No.

Q Had you ever given Mr. Chu this address, 2185 Valentine Avenue?

A Yes, when I first him.

Q On August 6, 1973 did you give Mr. Chu that address?

A No.

Q After you were married do you recall going back

to Mr. Chu's office?

A Yes.

Q And Fan Chiu was there with you, your husband?

A Yes.

Q Do you recall Mr. Chu asking you and Fan questions

A The day we got married?

Q Yes.

A When I went back to his office?

Q Yes.

A No, I don't -- I think he asked me questions, if everything went all right in the marriage.

Q You do not recall him asking you any questions about where you lived?

A No.

Q Or where you were going to live?

THE COURT: Answer aloud so the reporter can take it down.

A No.

(Continued on next page.)

Q And you did not in your husband's presence tell Mr. Chu that you were going to live at 2185 Valentine Avenue on August 6, the day you were married?

A Yes, I think I did.

Q On August 6, 1973, the day you were married and went down to Mr. Eugene Chu's office, did you in the presence of your new husband, Fan Chiu, tell Eugene Chu, the lawyer, that you would be living at that address?

A Yes, I think he asked me --

Q Is the answer yes?

A Yes.

Q Did you testified that Mr. Chu gave you money that day, that is August 6, 1973? Eugene Chu, the lawyer.

A Yes.

Q Did you testify that you counted it?

A Yes.

Q And that was in Mr. Chu's presence?

A Yes.

Q Did you testify that you then gave some money to Jean Fong?

A Yes.

Q Did you give Jean Fong that money in Mr. Chu the lawyer's presence?

A I think so.

Q What is your best recollection?

A I can't recall that day exactly what happened.

Q You don't recall what happened that day?

A (Nodding negatively.)

Q You know Mr. Hittelman, don't you?

A Yes.

Q From the Immigration Service?

A Yes.

Q Was Mr. Hittelman one of the people that told you that so long as you told the truth you wouldn't be prosecuted?

A Right.

Q He took a statement or you had a conversation with Mr. Hittelman on July 23, 1975?

A Yes.

Q Do you recall that? You signed a piece of paper, a statement?

A Yes.

Q Did you write that statement?

A No.

Q Did Mr. Hittelman write it?

A I believe so.

Q He asked you questions and then he wrote things

down?

A Yes.

Q Then he read it to you?

A Yes.

Q You signed it?

A Yes.

Q You said that it was full and true and correct, to the best of your knowledge?

A To the best of my knowledge.

Q Isn't it true that in that statement you told Mr. Hittelman that after the marriage you told Mr. Chu that you had been married and Mr. Chu had paid you $1500 in cash, didn't you tell him that?

A Yes.

Q And isn't it true that you did not say anything to Mr. Hittelman about counting the money and giving Jean Fong money?

A Excuse me. I don't understand.

Q Did you tell Mr. Hittelman that on the afternoon of August 6, 1973 after you were married that Mr. Chu the lawyer gave you $1500 and that you in turn gave Jean Fong some of that money?

A I I told that to Mr. Hittelman?

Q Did you tell Mr. Hittelman that in July, 1973

when you signed that statem t?

MR. KINGHAM: I believe it is 1975, your Honor.

MR. FLEMING: 1975, of course, it is.

A I don't remember. Whatever is on the statement, that's w.at I said.

Q I want your best recollection, f you can give it to me, Miss Miranda.

When you went down to Mr. Chu's office after the marriage and Mr. Chu gave you some money, did you in Mr. Chu's office give Jean Fong any money?

A To the best of my knowledge, I think I did.

Q When you spoke to Mr. Hittelman a year ago in July, 1975, at that time you gave him the best of your knowledge too; is that right?

A Yes.

Q Is that right?

A Yes.

Q When you spoke to Mr. Hittelman and gave him the best of your knowledge, did you tell Mr. Hittelman that Gene Chu had said to you that your husband's brothers were looking to kill you?

A No.

Q And that Raoul, or whoever it is, said to Gene Chu, "That better not happen or someone is going to get

hurt," did you tell Mr. Hittelman that?

A No, no.

Q When did you remember that?

A I told Mr. Kingham about two or three days ago.

Q Two or three days ago? Was Mr. Kingham one of the people who said you would be prosecuted if you didn't tell all the truth?

A Yes.

Q Do you know he is the Assistant United States Attorney?

A Yes.

Q Do you know he is the prosecutor?

A Yes.

Q Do you know he is the person who can prosecute you?

A Yes.

Q How many times did you talk to Mr. Kingham about your testimony?

A I think it's about four times.

Q By the way, when you spoke to Mr. Hittelman and you swore to tell the truth and all the truth to Mr. Hittelman, did it slipped your mind that Gene Chu told you that Fan's brothers were going to kill you?

A Yes, because this happened --

Q You had forgotten?

A Right, because this happened a long time ago and I din't remember.

Q Didn't Chiu, your husband, pay you $300 a month?

A No

Q $200 as part of the agreement an $100 for your rent?

A No. It was 200.

Q Just 200?

A Yes.

Q In fact, didn't Chiu, your husband, want to live with you?

A Yes.

MR. KINGHAM: Objection, your Honor -- it's been answered. I will withdraw it.

Q You wouldn't let him; is that right?

A Right.

Q You took the $200; is that right?

A Yes.

Q You took it in September, '73?

A Yes

Q You took it in October, '73?

A Yes.

Q November of '73?

A Yes.

Q December of '73?

A Yes.

Q Did you take it in January of '74?

A I stopped taking the money after we came out of the Immigration interview.

Q Down at the Immigration interview, I think that date has been fixed as January 18, 1974 -- is that correct?

A Yes.

Q Immigration spoke to your husband Fan Chiu alone?

A No.

Q Mr. Chu was with him, as far as you know?

A Yes.

Q Then they spoke to you?

A Yes.

Q And Mr. Chu was with you?

A Yes.

Q Am I correct that Mr. Chu told Immigration that he was your attorney?

A Yes.

Q He did not hide that fact?

A No.

Q Am I correct that after your husband Fan Chiu and you had been interviewed, that Mr. Chu told you that he did not believe Immigration believed you?

A Yes.

Q Didn't he tell you that it was silly to go any further?

A Yes.

Q And didn't he tell your husband Fan Chiu, that he should withdraw his application?

A Yes.

Q And didn't Gene Chu also tell you that he himself, Gene Chu, did not believe that you had been living together?

A No. He knew we weren't living together.

Q Oh, did he?

A Yes, he did.

Q Had he been over to your apartment?

A No, but he knew --

Q No, no, we will take a question at a time.

THE COURT: Just answer the question, please.

A Yes, he knew that Chiu was not living with me.

Q Had you told him?

A Yes.

Q When?

A I don't remember the day I told him.

Q When you talked to Mr. Hittelman, he took your statement in July, 1975. Did you tell Mr. Hittelman that you had told Eugene Chu the lawyer that you were not living with your husband?

A No.

Q You didn't tell Mr. Hittelman that then?

A No.

Q Had it slipped your mind that you had told Gene Chu that?

A I didn't tell Gene Chu that either. He knew that for a fact, that he wasn't living with me.

MR. FLEMING: I move to strike it, if your Honor please.

THE COURT: It will be stricken.

MR. FLEMING: I'd ask the jury to disregard what this witness believes Mr. Chu knew.

THE WITNESS: Your Honor, can I say something?

THE COURT: Wait for a question, please, ma'am.

Q Do you know Alice Aviles?

A I just know her by sight.

Q Did you ever have a conversation with Alice Aviles about shaking the attorney Gene Chu down for --

A No, no.

Q What was my question?

A have nothing to do with Alice Aviles.

Q W-th what?

A With anything. I don't ever know her.

Q You answered my question before I finished it. What was my question?

MR. KINGHAM: I object, your Honor.

THE COURT: Sustained.

Q When you were shaking your head, what were you shaking your head "no" to?

A That I don't know Alice Aviles.

Q Did you ever discuss with Alice Aviles a scheme to shake $15,000 out of Gene Chu by threatening to tell stories about him at Immigration?

A No.

Q Did you ever hear of such a scheme?

MR. KINGHAM: Objection, your Honor.

THE COURT: Sustained. She said she never heard of Alice Aviles at all.

Is that correct?

THE WITNESS: Yes. I have seen her, but I don't have no kind of contact with her.

THE COURT: You said you didn't know her? You have seen her.

THE WITNESS: Yes, yes.

Q Have you ever said "Hello" to her?

A Once or twice.

Q Do you have a sister named Carmen Miranda?

A Yes.

Q Is she a friend of Alice Aviles?

A Yes, she is.

Q Did Carmen Miranda ever talk to you about a plan of Alice Aviles to extort $15,000 from Eugene Chu?

A No.

Q On your oath?

A Maybe she maybe mentioned it, but I don't hear about it.

MR. FLEMING: I don't think I have anything further, your Honor.

THE COURT: Any cross, Mr. Concannon?

MR. CONCANNON: Your Honor, may I have a moment? I may not have any questions at all. I would like to consulot with my client.

MR. FLEMING: May I have one more question, your Honor?

THE COURT: All right.

BY MR. FLEMING:

Q This fellow Raoul, did Raoul ever go to Mr. Chu,

the attorney' office, with you before Immigration questioned you in January?

A Yes.

Q On your oath?

A Yes.

Q By the way, is Raoul now in jail?

A Yes.

Q Convicted of drug offenses?

A Yes.

(Continued on next page.)

Q A state offense?

A Yes.

Q What is his sentence?

MR. KINGHAM: I object, your Honor.

THE COURT: I don't know what the relevance is.

MR. FLEMING: It goes to motive, if your Honor pleases.

THE COURT: I don't know the relevance of this.

MR. KINGHAM: I have no objection. I will withdraw the objection.

Q Of what is he convicted?

A They gave him from one to life.

Q Selling narcotics?

A Yes.

Q He is doing that time now?

A Yes.

Q Would you like to see him out of jail?

A Would I like to see him? Yes.

Q Out of jail?

A Yes.

Q Would you like the help of the United States Attorney t get him out of jail?

A I don't have no help from them.

Q I say would you like it?

A If they would give it to me, yes, I would.

MR. FLEMING: Okay.

CROSS-EXAMINATION

BY MR. CONCANNON:

Q Miss Miranda, my name is Thomas Concannon, and I represent Jean Fong.

Do you recall the actual date that you first went to Jean Fong's apartment with your friend Jeannette?

A No.

Q About how long was it before you were married?

A I don't recall.

Q When you went there that day, you had no intentions of discussing anything about marriage, that is to Jean Fong's apartment, is that correct?

A Correct.

Q You went there to try to find out whether or not she knew of a lawyer?

A Right.

Q For Jeannette?

A Right.

Q And Jean Fong indicated that there was a

lawyer named Mr. Chu that she knew, is that right?

A Yes.

Q Did she tell you that he was the only lawyer she knew at that time who might be of some assistance?

A I don't recall.

Q There was no discussion in the apartment, however, concerning marriage?

A No.

MR. CONCANNON: I have no further questions, your Honor.

THE COURT: Mr. Barry?

MR. BARRY: I have no questions at this time.

MR. KINGHAM: May I, your Honor?

THE COURT: Please.

REDIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Miranda, in connection with Raoul Gonzalez and the fact that he's in jail, have you ever requested any help whatsoever from the United States Attorney's office or the United States Government for Raoul Gonzalez and his case?

A No.

Q In fact, didn't you refuse to discuss that case with me?

A Yes.

Q Didn't the United States Attorney's office do one thing to help you in connection with Raoul Gonzalez?

A Yes.

Q Would you explain to the Court and jury what that one thing was?

A Well, today I was supposed to take my son to see him, and he has only got visiting from 12 to 2, so since I was supposed to come to court, I wasn't able to see him, and they ship him out on Thursday and I don't know when he will be able to see my son, so Mr. Kingham helped me so I could get a pass to see him today, so my son could see him, and that was all.

Q Is that son also Raoul's child as well?

A Yes.

Q When, if you recall, Miss Miranda, was the first time that you were told you wouldn't be prosecuted in connection with the marriage?

A The date was on the third or fourth visit.

Q To whose office?

A To your office, Mr. Kingham's office.

Q At the time that you spoke with Mr. Hittelman in August of 1975 were you advised that the answers that you gave could be used against you in court?

A YEs.

Q Did you nonetheless give those answers to Mr. Hittelman?

A Yes.

Q Do you recall as you sit here today exactly every que tion Mr. Hittelman asked you?

A No.

Q Or exactly every answer you give to him?

A The best of my knowledge, I t ink so.

Q You recall when Mr. Fleming, who was the first ger leman who questioned you, asked you a question as to when t was that you told Gene the lawyer that you would be living at 2185 Valentine Avenue -- do you recall being asked a question about that?

A Yes.

Q Just a few minutes ago.

Do you recall having begun to say that Gene the lawyer h d asked you something before you told him that?

A I don't understand.

MR. FLEMING: I don't recall that. I object to it.

THE COURT: I don't recall that exactly that way eith er.

MR. KINGHAM: If I may, your Honor, I will rephrase.

Q Do you recall Mr. Fleming having asked you when it was that you told Gene the lawyer that you would be living at 2185 Valentine Avenue, do you recall being asked about that?

A Yes.

Q In connection with the form, that's Government's Exhibit 1-B?

A Yes.

Q When did you tell Gene the lawyer that you would be living at 2185 Valentine Avenue?

A I think -- because I told him that I was leaving to Puerto Rico the same day I would get married, and if I am not mistaken he asked me, when I came back, where was I going to be living, and I told him at 2185.

MR. KINGHAM: I have no further questions, your Honor.

RECROSS-EXAMINATION

BY MR. FLEMING:

Q Miss Miranda, when I questioned you, did you testify that Mr. Hittelman had told you that you would not be prosecuted if you told the truth?

A If he had told me that?

Q When I cross-examined you, did you testify that Mr. Hittelman is one of the people who had told you that you wouldn't be prosecuted if you told the truth?

A No, it was Mr. Kingham.

Q When I questioned you on cross-examination, did you testify that Mr. Hittelman was one of the people who had told you that you wouldn't be prosecuted if you told the truth?

A I think I said yes.

Q And that was in July, 1975, isn't that right?

A But he never did tell me that. It was Mr. Kingham, the one who told you.

Q You were wrong?

A Right.

MR. FLEMING: I see.

MR. KINGHAM: One question, your Honor, if I may.

REDIRECT EXAMINATION

BY MR. KINGHAM:

Q Was Mr. Hittelman present in the United States Attorney's office when you were told that?

A Yes.

MR. KINGHAM: Nothing further.

THE COURT: Thank you, Miss Miranda. That is all, you are excused.

(Witness excused)

MR. KINGHAM: The government calls Michael Cutler.

MR. FLEMING: Your Honor, could we have an offer of proof on this witness?

(At the side bar)

MR. KINGHAM: Your Honor, Mr. Cutler is presently an investigator with the immigration service, but in January of 1974 he was an interviewer in the I-130 program. He was the interviewer who interviewed Wun Chiu Fan and Mildred Miranda and took notes of that interview.

The government calls Mr. Cutler to testify as to the procedures he followed to introduce into evidence the notes that he took of the interview as a business record of the I-130 program.

MR. FLEMING: First of all, I don't think the notes are admissible as a business record, and I don't see the relevance, if your Honor please, really.

MR. SPRIZZO: I take it it is not being offered for its truth?

THE COURT: They might not be admissible as a business record but as a contemporaneous memorandum they might be, or as a refreshment of his recollection they might be.

MR. KINGHAM: None of the interviewers recalls specifically the interviews. They do thousands of these things. So this is past recollection recorded perhaps.

THE COURT: I think so. Not as a business record, but either to refresh his recollection so that he can testify or as a memorandum of past recollection recorded.

MR. KINGHAM: They are certainly not offered, as Mr. Sprizzo reminds me, for the truth of the matter asserted in the statements but merely to show that the statements were made.

MR. FLEMING: That's why I don't understand their relevance, your Honor.

THE COURT: That's why they wouldn't be hearsay, so your objection now is irrelevance and not hearsay.

MR. FLEMING: That's my basic -- first of all it was not a business record, but I don't see the relevance in any event.

lhr10

MR. KINGHAM: It is relevant for the jury to know what statements these people made to the immigration service.

MR. FLEMING: It doesn't matter what they say.

MR. KINGHAM: And the defendant was present when the statements were made.

MR. FLEMING: The charge is that the defendant caused these people to tell lies.

MR. KINGHAM: I think the jury is entitled to know what they said.

THE COURT: Since the statements were made in the presence of the defendant Chu, I think the statements are admissible. Certainly at least to the extent that the defendant Chu knew the statements were false and didn't speak up to correct them.

MR. FLEMING: I agree with that, your Honor. I don't think there is any evidence of that.

MR. KINGHAM: The evidence of that obviously is by inference.

MR. FLEMING: It is totally lacking.

MR. KINGHAM: It seems to me these statements definitely come in as being made in the presence of the defendant.

MR. CONCANNON: There is no indication that my client was present during the time that these statements were made, and should your Honor decide to admit them over the relevance objections, I ask that the jury be given an instruction concerning the failure of the government to correct them at this point.

THE COURT: I will give such an instruction and I will further tell the jury that they are being admitted subject only to connection, that is only to the extent that it is later shown that the defendant knew that the statements being made in his presence were false.

MR. KINGHAM: If I may, your Honor, I'd like to point out one other thing, and that is that all of these aliens and spouses are alleged co-conspirators in this case, and it is clear that these statements as lies are in furtherance of the conspiracy and made in the presence of the defendant.

So you have a question as to whether or not they arein furtherance of the conspiracy. I think the evidence shows that they were.

THE COURT: Have you identified them as unindicted co-conspirators?

MR. KINGHAM: We have, your Honor, by way of

bill of particulars.

MR. FLEMING: Your Honor said they are admitted subject to subsequent evidence that Mr. Chu knew they were false. There can't be any more subsequent evidence. He put his witnesses on on this marriage.

THE COURT: How do you know that?

MR. FLEMING: I know what witnesses he is going to call. He just told me. I read the Jencks material. There wouldn't be any further evidence as to this marriage.

THE COURT: He may call a witness as to which there is no Jencks material.

MR. KINGHAM: To save time, Mr. Fleming is correct in that respect.

THE COURT: I think the point that Mr. Kingham made is that these statements are attributable to all of the other members of the conspiracy. If they were made in furtherance of the conspiracy, and they were, on that basis I will admit them.

MR. SPRIZZO: On the question of statements of acts of people outside the presence of Mr. Chu or Mr. Fong as the case may be, rather than interrupt at the trial, can we have a continuing objection to all such

statemen s out of the presence of each defendant on the theory that they are not admissible against us unless the governm it connects -- rather than getting up and -- we would just like to have a continuing c jection to all testimony of the facts and statements out ide the presence of Mr. C i on the theory that they arenot binding upon him up ur il such time as a conspiracy is proved.

THE COURT: I will so instruct the jury.

MR. BARRY: And as to defendant Yu.

MR. FLEMING: We have our exceptoin.

(In open court)

THE COURT: I want to explain to the jury before the next witness comes in that he is, as I understand it, an employee of the Immigration and Naturalization Service who interviewed Mr. and Mrs. Fan at the offices of the Immigration and Naturalization Service for the apparent purpose of determining whether they were in fact living together as husband and wife. I understand that some or all of these statements were made in the presence of the defendant Gene Chu.

These statements are not admissible as evidence in the case unless and until the jury finds that there was a conspiracy between Gene Chu and Mr. and Mrs. Fan to deceive or defraud the Immigration and Naturalization Service.

Likewise, these statements are not admissible with respect to the other two defendants, Jean Fong and Kuo Ping Yu, unless and until the jury shall find that they were members of that conspiracy, and further that the statements were made in furtherance of the purposes of the conspiracy.

I will advise you further if I think there has been no evidence to connect the various defendants together with Mr. and Mrs. Fan in the conspiracy or

whether think this is an issue which is up to you to determin. If you determine that there is no conspiracy then you will disregard the testimony about the statements made by Mr. and Mrs. Fan to the Immigration and Naturalization Service on the occasion in question.

All right. Bring the witness in.

MR. KINGHAM: Michael Cutler, your Honor.

M I C H A E L W I L L I A M C U T L E R, called as a witness by the government, being first duly sworn, testified as follows:

MR. KINGHAM: May I have a minute, your Honor?

THE COURT: I think this might be a good time for our afternoon break, the reason being that I am going to have to leave a little early this afternoon for a meeting of judges. So let's take our ten-minute break now. That will give you the time you need.

MR. KINGHAM: Fine, thank you.

(Recess)

MR. KINGHAM: May I inquire, your Honor?

THE COURT: Please.

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Mr. Cutler, how are you employed at the present time?

A Presently a criminal investigator with the immigration service.

Q How long have you been employed by the immigration service?

A Since October 1971.

Q How long have you been a criminal investigator?

A Since August of 1975.

Q Are you familiar with the I-130 program?

A Yes, I am.

Q During the period 1973 to 1974 were you an interviewer in that program?

A Yes, I was.

Q What were your duties as an interviewer?

A Basically to question the applicants as to whether ornotthey were living together.

Q How many interviews would you say you had during the time you were an interviewer?

A It would be difficult to give an exact figure, but it ran into the hundreds.

Q Did you use the same procedure generally every time you conducted an interview?

A Yes, I did.

Q What procedure would you follow?

A Well, the people would be brought to my office or I would go out and bring them in, if they had an attorney present, with the attorney. I would introduce myself to them. I would explain the reason for the procedure that we were going to follow. I would place them under oath. I would separate them.

I would generally start out by asking the alien, that is, the non-citizen of the couple, questions that should be relatively easy to answer concerning --

MR. FLEMING: Object to that. Relatively easy to answer, I think that is an opinion.

THE COURT: I will sustain the objection.

Q Would you then ask questions of the alien and the citizen separately? Is that what you would do, sir?

A Yes, I would.

Q Was any record kept of the questions you would ask and the answers you were given?

A Yes, there was such a record.

Q What type of a record was that?

A Initially we were just devising our own basic system and it consisted of notes that I would jot down on a pad that would reflect what was told to me.

Q What would you do with those notes?

A If the case were referred to investigations, then I would give the notes to the investigator along with the case file.

Q Did the notes reflect in substance the answers that were given by the people you interviewed?

A Yes.

Q Let me show you what has been marked Government's Exhibit 22 for identification and ask you if you recognize those?

A Yes, I do.

Q What are those, sir?

A Those are notes of an interview that I conducted.

Q How do you recognize them as notes of your interview?

A Well, for one thing, it's my own handwriting, and I think that each of us developed our own kind of a speedwriting technique and this is unique to my own style.

Q Do you know who the parties were who were

interviewed and whose interview is reflected in those notes?

A I can read it right off the top. It's Mildred Fan and Wun Chiu Fan.

Q Do you know, sir, the date of that interview?

A I do not.

Q Let me show you what is Government's Exhibit 17 for identification, calling your attention to the second page. Would you look at that first.

A Yes.

Q Then I will ask you a question.

A All right.

Q Does that refresh your recollection as to what date it was that this couple was interviewed?

A Yes.

Q What was that, sir?

A January 16, 1974.

Q On the date of the interview -- let me ask you to look at that again and tell me if your recollection is refreshed as to the exact date.

A I am sorry. It was the 18th. My error.

Q Outside of those papers that are in front of you, do you have any independent recollection of the interview?

A No, I do not.

Q Outside of the papers that are Government's Exhibit 2 for identification in your handwriting, do you have any independent recollection of what was said during that interview?

A No, I do not.

MR. KINGHAM: Your Honor, Government's Exhibit 22 for identification is offered as Government's Exhibit 22

MR. FLEMING: We have our objection, your Honor.

THE COURT: Yes, you have.

I will remind the jury that this is being accepted into evidence on the basis that I instructed you about a moment ago, that is, subject to connection by showing that there was a conspiracy between Mr. and Mrs. Fan and the respective defendants and that these statements were made in pursuance of the objectives of that conspiracy

(Government's Exhibit 22 was received in evidence)

Q Mr. Cutler, I call your attention first to the first small sheet of Government's Exhibit 22. What is that?

A It's what I labeled a signature specimen.

Q Of whom?

A It bears the signature of Mildred Fan.

(Continued on next page)

Q Do these handwritten notes, Government's Exhibit 22, contain certain abbreviations that are your abbreviations?

A Yes.

MR. KINGHAM: Your Honor, I wonder, with the Court's permission, if the witness could read Government's Exhibit 22 because of the abbreviations that appear thereon.

THE COURT: He may.

MR. KINGHAM: Thank you, your Honor.

Q If you would read that to the jury, Mr. Cutler.

A All right. Well, I started out by indicating that this is the interview of Mildred Fan, and I have an address there if you want that.

Q Please read directly from the document and where abbreviations appear please say what the abbreviations mean.

A The address was given at 2185 Valentine Avenue, 4-H, fourth floor, Bronx, meaning that that would be Apartment 4-H.

Then I have here she prev, p-r-e-v, which would mean previously, worked at, and that looks like Cert, C-e-r-t, but that would be Certified Buying Service, from February to June 1973, and from 1971 to '73 at AKC. I guess that would be the American Kennel Club.

Then bln, which would be what time she went to bed last night -- 11 o'clock was what she said she did -- and he was in bed first, and she reversed it and said that he came home about 1.00 a.m. and that she was in bed.

Then I have 6-A, she got out of bed first. That was 6 a.m. that morning. She had gotten out of bed first -- this is according to her statement -- went to the bathroom while he stayed in bed. She told him to get up after she came out of the bathroom.

Then the next notation is that he is off on Tuesday and then brother lives across the hall, phone under the name Gonzalez, phone under Gonzalez, literally, and then he takes a bus to Long Island to go to work -- that's LI, would be Long Island -- to go to work.

Then I have comb faucet -- that was a combination faucet -- was in the bathroom and kitchen

Should I explain or not?

Q Please just say what is on the document.

A Okay.

Then tub water drain on the outside pedestal release and then there is no shower curtain around tub and that they fell off about three or four weeks ago, they were black and white.

Q Meaning what, do you know?

A The color of the shower curtains were black and white, that they had fallen off three or four weeks previous.

Q That is all the information on the first page of Government's Exhibit 22, is that correct?

A That is correct.

Q And that is the information you received from the citizen, Mildred Fan, is that right?

A That is correct.

Q What is the second page of Government's Exhibit 22?

A Okay.

This one is entitled Wan Chiu Fan and this would be the record of the interview that I took.

On the very top of the page I have a number which I believe is his Social Security number, 068 dash -- it looks to me to be a 52 -- dash 1726.

Age 25, dob, that is, date of birth, 7/9/49, 2185 Valentine Avenue, fourth floor, Apartment -- it looks like H -- Bronx, and it's between, b-e-t, 181 and 182, and I am assuming that was the streets that it was bracketed by, that it is a six-story b-l-d-g, building, with one elevator, he since d-o-m, he was living here since date of marriage, she previous, again, p-r-e-v, previously lived

here, since he's known her.

Her age is 22, her date of birth is August 19, 1951.

They met ca or approximately one year ago. d-o-m or date of marriage August 6, 1973.

Then moving down we have came home at ca or approximately 1 o'clock l/n -- that's last night -- from restaurant, and that was Long's Restaurant, and b-l-n, bed last night, at ca, approximately, 2 o'clock, he and she, and then he said that he opened the door l/n, last night, and she was wearing night clothes.

Valentine Avenue was a two-way street between 181 and 18_ on left side. She previously lived here alone. She has two older sisters and one younger brother in New York, no other brother and sister as far as he knows, and her both parents live in Puerto Rico. He never met the parents.

She doesn't work now. She worked before date of marriage, d-o-m, not since. She worked for AKC. Phone number now 220-4187, in her name. Studio apartment. Bathroom sink has sep, s-e-p -- that would be separate faucets -- kitchen sink has c-o-m-b, combination, faucets, light s-w, which would be switch, in bathroom on r-t side wall. That's right side of the wall.

Then the before d-o-m, date of marriage, 40 Ludlow Street, Apartment 15, on fourth floor. She was never there. He earns $100 per week including, i-n-c, tips. Rent equals or is $115 before taxes. Refrig, meaning refrigerator, has one door. Medicine chest w/, with pull door, shower over tub. Shower curtains around tub are blue floral. Tub drain equals knob near faucets.

W-T-D, what time they woke up today, that was 7 a.m., he and she together. He got out of bed first by a couple of seconds.

Windup alarm clock. That's a type of alarm clock.

B and W, black and white television.

He is only off on Tuesday, or tues, as it is there, was off this past week on Tuesday only. He works 3 p to 11 p. That's 3 p.m. to 11 p.m. He stays at restaurant and only comes home usually the day before day off.

He last saw her sister and brother at his home on New Year day and the oldest sister is married and has no kids, wife has no kids.

Q Was that information from the second page of Government's Exhibit 22 in evidence the information you received from the alien, Wan Chiu Fan?

A That is correct. There are asterisks next to whatever discrepancies came up during the course of the question.

(Continued on next page.)

Q The asterisks would then be placed by you on the first page where there were discrepancies between the information from the alien and the information from the citizien; is that right, sir?

A That is correct.

MR. KINGHAM: No further questions, your Honor.

XX CROSS EXAMINATION

BY MR. FLEMING:

Q Who is the interpreter, Mr. Cutler?

A I am sorry, I don't have a record of that.

Q Was there one?

A To the best of my knowledge, there would have been.

Q I am sorry?

A There would have been, had there been a language difficulty. That was general procedure.

Q If there was no language difficulty, there would be no interpreter?

A That would be correct, if both spoke English.

Q And you have no recollection as to whether there was or was not an interpreter?

A No, sir, I do not.

Q You don't note on your notes the presence of an

interpreter, do you?

A Generally I would not have noted that presence.

Q Mr. Cutler, is there any note --

A No, sir.

Q Is there any notation on your notes that an interpreter was present when you were talking with Mr. Fan?

A No, sir.

Q Do you know Mr. Guthrie?

A Yes, I do.

Q Was he working in the I-130 program or in charge of it when you were a questioner or interviewer?

A That is correct.

Q Did you ever hear Mr. Guthrie say or advise anyone to shelve an application to see if the marriage would break up?

A Never.

Q What color dress did your wife have on last night?

A A good question, but I am not married.

MR. FLEMING: May I congratulate you.

THE COURT: Mr. Concannon?

MR. CONCANNON: I have no questions.

THE COURT: Mr. Barry?

MR. BARRY: I have no questions, your Honor.

THE COURT: Any redirect?

MR. KINGHAM: Nothing further.

THE COURT: Thank you.

(Witness excused.)

MR. KINGHAM: The Government calls Francesca Torres.

- -

F R A N C E S C A T O R R E S , called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Torres, I'd ask you to keep your voice up so that I can hear you back here in the back of the courtroom. Will you do that, please?

Are you a citizen of the United States, Miss Torres?

A Yes, I am.

Q Where were you born?

A Puerto Rico.

Q Have you ever been married?

A Yes, I was.

MR. FLEMING: Your Honor, I cannot hear her.

Q I cannot hear you, Miss Torres. Would you please speak up?

A Yes, I was. Yes.

Q What was your husband's name?

A Tommy Hu.

Q Have you ever been divorced from Tommy Hu?

A No.

Q When were you married?

A July 19, 1973.

Q Before the date of your marriage, did you meet a person named Jean Fong?

A Yes.

Q Do you know her by any other name?

A Mom.

Q Do you see Mom in the courtroom?

A Yes, I do.

Q Would you point her out, please?

A She is right there.

Q Describe what she is wearing.

A The black suit with the blouse

MR. KINGHAM: Indicating the defendant Jean Fong, your Honor.

THE COURT: The record may so reflect.

Q Do you recall how long it was before the date of

your wedding in July, 1973 that you met Jean Fong?

A About a week or so.

Q Please speak up because I cannot hear you.

A A week or so before I got married. Two weeks.

Q Where was it that you met her?

A In her house.

Q Where was her house?

A Allen Street.

Q Here in Manhattan?

A Yes.

Q Who was present at the time you met Jean Fong at her house?

A Alice Aviles.

Q Who else?

A Jean Fong, Alice Aviles and her kids, I believe. That's it.

Q Those kids?

A Jean Fong's kids.

Q Where did you live at that time?

A On 3rd Street in Manhattan.

Q With whom did you live?

A With Alice Aviles.

Q At the time that you met Jean Fong at her house, was there a conversation?

A Yes, there was.

Q What was said?

A I was told if I wanted to get married for money.

Q Who said that?

MR. CONCANNON: I didn't get the answer, and I cannot -

THE WITNESS: I was told if I wanted to get married for money, if I wanted to make some money.

Q Who said that?

A Well, first Alice Aviles had told me, and then Mom had mentioned it, Jean Fong had mentioned it to me in the apartment.

Q What did you say?

A I had said yes.

Q Did Jean Fong say anything after that?

A That she would make the arrangement, she will introduce me to somebody.

Q Was there any other conversation at that time?

A No. There was arrangements for me to meet somebody.

Q What did you do after your meeting in Jean Fong's house?

A After that I had went home because I couldn't meet the person that same day.

THE COURT: Speak up, please, so everybody in the back of the room can hear you.

THE WITNESS: After that I went home because I couldn't meet the person that same day.

Q Did there come a time when you met a man named Gene Chu?

A Yes, there was.

Q Where was it that you met him?

A Division Street, his office.

Q How long after the day you met Jean Fong did you meet Gene Chu?

A I believe it was the day after or two days after that.

Q Do you see Gene Chu in the courtroom?

A Yes, I do.

Q Would you point him out?

A He is next to Jean Fong.

MR. KINGHAM: Indicating the defendant Chu, your Honor.

THE COURT: The record may so reflect.

Q Who went to Gene Chu's office with you, Miss Torres?

A Miss Jean Fong.

Q Who was there at that time?

A yself, Jean Fong and the lawyer.

MR. CONCANNON: And who?

THE WITNESS: And the lawyer, Gene Chu.

Q Was there any conversation?

A Yes. We were -- I was asked if I had a birth certificate

Q ho asked you?

A We were talking about the mar iage.

Q Who said what, Miss Torres, as est you recall?

A The lawyer had asked me about if I had a birth certificate and then we started -- I had asked him about how much, yc know, would I be getting.

Q What did he say?

A $3500.

Q What did you say?

A After he asked me for a birth certificate, I had told hi ves, that I had one, and then he had said that -- he wasn't sure of me, you know, going through with it, but then he thought about it and he just started making arrangements. He told me to go for a blood test.

THE COURT: Speak up, please. I think it is very difficult for the people in the back of the room to hear you.

THE WITNESS: He had asked me to go for a blood

test.

Q Do you recall if he said anything else at that time?

A Yes, he had said that he would let me know when I can meet Tommy Hu. He didn't mention Tommy Hu. He said, "The person."

Q Did he say anything else?

A There were so many things said, I can't remember everything.

Q Was there any conversation about sex?

A Yes. I had asked him would I have to, you know, be with him, live with him. He had told me, "You would have to live with him, you know, for it to look real," but it was up to us if we wanted to have sex with him, you know, with our husbands, or if we didn't.

Q Was anything else said about that?

A No. I had said no, that I didn't want anything to do with it, with sex.

Q After the meeting in Gene Chu's office, where did you go?

A After the meeting I went to a place in lower Manhattan for a blood test.

Q Did you meet Tommy Hu on that occasion or was that some time later?

A No, I didn't.

Q Was that later?

A I can't remember exactly how it went. No, I didn't -- I didn't go for the blood test that day because I had to meet Tommy Hu the next day or a few days later, and then I had to go for the blood test with Tommy.

MR. FLEMING: I am sorry, your Honor. It starts and then falls off.

(Record read.)

Q After that meeting at Gene Chu's office, did you see him again? Gene, the lawyer.

A Yes, I did.

Q When was that?

A About a few days later, after the blood test.

Q Where?

A At 9 Division Street.

Q Who was present at that time?

A Jean Fong, myself and the lawyer and Tommy Hu.

Q Was there a conversation among those people?

A Yes, there was.

Q What was said?

A It was -- let me see now. There was a conversation of the way the money would be, the way I would get the money --

Q What was said and who said it?

A Well, he had asked -- the lawyer had asked me if I -- how I wanted the money, I would have to ask Tommy. So I had told Tommy that I would, you know -- they had told me first that they would give me 1500 cash, but it wasn't like that. I got 1200 cash, and I would get -- it was up to Tommy to give me monthly what he wanted to give me. So I had asked for 150 monthly.

Q Was Gene Chu the lawyer present when you said that?

A Yes.

(Continued on next page.)

5B

lhrl Torres-direct

Q What did you do after that meeting in Gene Chu's office?

A After that I believe that we were supposed to go, I don't remember if it was the same day or the next day, to City Hall to register.

Q Sometime around then did you have a blood test?

A Oh, yes, I had the blood test before that.

Q Who was present when you had the blood test?

A Jean Fong.

Q I am sorry?

A Jean Fong.

Q Was Tommy Hu also present?

A Yes.

Q What language did you and Tommy Hu communicate in?

A English.

Q Did he speak English?

A Yes.

Q Did there come a time when you went to City Hall?

A Yes, I did.

Q By City Hall I mean this big building next to the court house.

A Yes.

Q The Municipal Building, is that right?

A Yes.

Q Do you recall exactly what date it was that you went there?

A No, I can't remember what date it was.

Q Let me show you what's been marked Government's Exhibit 12 for identification. Take that in your hand, Miss Torres. Speak up and out so everybody can hear you, all right?

If you look at that, does that refresh your recollection as to what day you went to City Hall?

A Yes.

Q What day was that?

A July 10.

Q 1973?

A Yes, 1973.

Q Do you recognize that document?

A Yes.

Q What is that?

A This is the one we signed, the application for the license, marriage license.

Q Who was present when that document was signed?

A Tommy Hu and myself, and I believe Jean Fong

was with us that day.

Q Do you know who filled out both sides of this document

A Tommy Hu and myself.

Q Did you sign the document?

A Yes.

Q Is your signature on there?

A Yes.

Q Was Jean Fong present when you signed it?

A I can't remember if she was with me that day.

MR. KINGHAM: Your Honor, Government's Exhibit 12 for identification is offered in evidence as Government's Exhibit 12. Likewise, Government's Exhibit 13 for identification as Government's 13.

MR. SPRIZZO: No objection, your Honor, except the one we already made at the bench.

(Government's Exhibits 12 and 13 were received in evidence)

Q Miss Torres, on July 10 -- I am sorry, on July 19, 19?? were you married to Tommy Hu?

A Yes.

Q Where were you married?

A City Hall.

Q Is that the same place that you filled out

the application?

A Yes.

Q Who was present at your wedding?

A Jean Fong --

Q Speak up because I can't hear you at all.

A Jean Fong, Tommy Hu and Tommy Hu's uncle.

Q Was there a conversation among the four of you at the time of the wedding?

A Yes, concerning who was going to be a witness.

Q What was that conversation?

A Well, Tommy's uncle decided to be a witness because we figured that Jean Fong was a witness already for the --

MR. CONCANNON: Your Honor, I heard none of that.

THE WITNESS: That Jean Fong was witness for other marriages, so Tommy's uncle signed.

Q Was that the substance of the conversation?

A Yes.

Q Was Tommy's uncle the one who signed as a witness?

A Yes.

MR. KINGHAM: If I may, your Honor, I'd like to read from Government's Exhibit 13 in evidence.

1hr5 Torres-direct

THE COURT: You may.

MR. KINGHAM: Thank you. The marriage license, Government's Exhibit 13 for Tommy Hu and Francesc Torres, the date of the wedding on the back at the City Clerk's Office, July 19, 1973, 10:31 a.m. The marriage between Tommy Hu and Francesca Torres, in the presence of John Fung, signed as a witness at the address 1290 Grand Concourse, Bronx, New York.

Q Was John Fung Tommy's uncle?

A Yes. That's what --

Q As far as you understood?

A Yes.

MR. KINGHAM: May we approach the side bar?

(At the side bar)

MR. CONCANNON: Your Honor, what I had asked Mr. Kingham was whether or not John Fung is indicated on the bill of particulars as a co-conspirator. He indicated that he's not sure.

MR. KINGHAM: I am sure he is not.

THE COURT: How much of this was his statement?

MR. KINGHAM: Nothing, your Honor, except that it was in his presence and this is a document under seal which is admissible anyway.

lhr6 Torres-direct

MR. CONCANNON: Correct me if I am wrong. I had understood that her testimony would be that he said that he should witness it because Jean Fong had witnessed others.

MR. KINGHAM: That that was the substance of the conversation among those people in the presence of the defendant Jean Fong, including Jean Fong.

MR. CONCANNON: In other words, without indicating the source of the --

MR. KINGHAM: That's correct, but that was the substance of the conversation in her presence.

THE COURT: I think by its nature that would have to come from Jean Fong.

MR. CONCANNON: She didn't indicate that.

THE COURT: She didn't.

MR. CONCANNON: I apologize for the interruption. Frankly, it is so difficult to hear I didn't understand the flow of things. Thankyou.

THE COURT: How much more direct are you going to have?

MR. KINGHAM: 15, 20, 25 minutes.

THE COURT: I have to leave by 10 after or a quarter after.

MR. KINGHAM: I will speed it up as much as

I can.

(In open court)

BY MR. KINGHAM:

Q Miss Torres, after the wedding ceremony at City Hall, where did you go?

A I went to 9 Division Street.

Q Whom did you see at 9 Division Street?

A The lawyer, Gene Chu.

Q Who was present with you at Gene Chu's office?

A Jean Fong, Tommy Hu, Tommy's uncle and myself.

Q What happened there?

A I went there to get my money.

Q What happened?

A They were having -- they were talking and they were talking --

Q In what language?

A They were talking in Chinese. I didn't understan at first. Then they started talking in English. Then it came out that I was supposed to get $1500 cash and I only got 12.

Q Who gave you the 12?

A It was given to me by the lawyer.

Q Cash or check?

A Cash.

Q Was there any other conversation at that time?

A Well, after that, after I got the money, I had left with Jean Fong, you know, and there was something that was said, but I don't remember, really.

Q Did Tommy Hu --

A Oh, yes, that they would let us know when we have to go for the interview to the immigration.

(Record read)

A (Continuing) And that me and Tommy would have to live together.

Q Did you give any address to Gene Chu at that time?

A Yes, I did.

Q What address did you give him.

A At that time I gave him -- Tommy had gave him 728 187th Street in the Bronx. That's the address we were using.

Q Did you give him any other address?

A 2185 Valentine Avenue.

Q In the Bronx?

A Yes -- no, wait a minute. 959. I remember Brooklyn, because I forgot that I was living at 959 East 108th Street in Brooklyn with Carmen Miranda, and I

1hr9 Torres-direct

had give that address to get in touch with me.

Q Did you tell him that?

A Yes.

Q That day?

A Yes.

Q Let me show you what has been marked Government's Exhibit 9B for identification. Would you take that and look at both sides of the document and tell me if you recognize it?

A Well, I remember signing a paper like this the day we got married and the day I went to get the money.

Q Would you turn that over, please? Is that your signature on the bottom of Governments' Exhibit 9B for identification?

A Yes.

Q Where was that signed and when?

A In the lawyer's office.

Q That day?

A I don't remember the date. This was signed --

Q Was that the day you got married, if you recall?

A 19th -- yes, this is the day I got married, but when I signed it I didn't read it, or anything, I just

signed it.

Q Was there any conversation about it when you signed it?

A When I signed it? No. All he told me was "This is something you will have to sign" so they will know where we are at, where we live.

Q Who said that?

A The lawyer had told me.

MR. KINGHAM: Your Honor, Government's Exhibits 9A for identification through 9F for identification again were the subject of a stipulation and are offered in evidence as Government's Exhibits 9A through F.

MR. SPRIZZO: No objection.

(Government's Exhibits 9A through F, inclusive, were received in evidence.)

MR. KINGHAM: Your Honor, if I may, the stipulation which was entered into earlier indicates that with respect to Government's Exhibit 9A and its enclosures, that they were received at the immigration service at the date and time indicated on the stamp, and reading from that on 9A it says July 25, 1973, 10:32 a.m. If I may, I'd like to read 9A, which is a cover letter explaining the enclosures.

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 9A in evidence)

MR. KINGHAM: Reading, if I may, your Honor, from Government's Exhibit 9B in evidence, the form I-130 received July 25, 1973 at 10:32 a.m. from block 3, signature of Francesca Torres Hu subscribed and sworn to before me this 23rd day of July, 1973, New York, New York, signed Gene Loy Chu, notary public.

Block 4, signature of person preparing form, I declare that this document was prepared by me at the request of the petitioner and is based on all information of which I have any knowledge, signed Gene Loy Chu, 9 Division Street, New York, New York, July 23, 1973.

BY MR. KINGHAM:

Q Calling your attention, Miss Torres, to block 16D of this form which bears your signature, Government's Exhibit 9B in evidence, which says "Last address at which you and your spouse resided together, 728 East 87th Street, New York, New York, USA, apartment 2, from July, 1973 to the present."

Did you ever live there with Tommy Hu?

A No, I didn't.

1hr12 Torres-direct

Q Block 1, part 21, reading from the back of Government's Exhibit 9B, "Address in the United States where beneficiary," that's Tommy Hu, "will reside, 728 East 187th Street, apartment 2, Bronx, New York."

Did Tommy Hu live there, if you know?

A He would stay there occasionally, but he would go to North Carolina a lot.

Q Block 2, "Information about petitioner," which is you "I reside in the United States at apartment 2, 728 East 187th Street, Bronx, New York 10458."

Was that true in July, 1973? Did you reside there?

A No, I didn't stay there.

Q Where did you stay in July of 1973?

A Brooklyn.

Q After you signed the form and obtained your money in the lawyer's office, what did you do?

A I stepped out, I went -- I was walking with Jean Fong and I gave her money.

Q How much did you give Jean Fong?

A $200.

Q Where did you go after that?

A I went home.

Q Which home?

A After that I was still staying at 218 Valentine Avenue, that's right.

Q When did you move from that address?

A When Tracy had got married, Carmen Miranda got married then her husband got the apartment in Brooklyn, then we had moved over there to Brooklyn.

Q After that did you live with Tracy, that is Carmen Miranda, at an apartment in Brooklyn?

A Yes, 959. 959 East 108th Street.

Q That 959 East 108th Street in Brooklyn?

A Yes.

MR. KINGHAM: Your Honor, according to the Court's schedule, this would be an appropriate breaking point.

THE COURT: As I told you, I am going to have to leave a little earlier tonight to go to a judges' meeting, so you will be the beneficiaries or the unfortunate sufferers, as the case may be.

We will break now until 10 o'clock in the morning.

Don't discuss the case in the meantime with your fellow jurors or with anyone else.

Have a good evening.

(Witness excused)

(The case was adjourned to Thursday, May 6, 1976 at 10 a.m.)

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UNITED STATES OF AMERICA

vs. 76 Cr. 439 (WCC)

GENE LOY CHU, et al.

May 6, 1976
10:00 a.m.

Trial resumed.

- - -

(In open court; jury present)

F R A N C E S C A T O R R E S resumed.

THE CLERK: Miss Torres, you are still under oath.

MR. KINGHAM: May I inquire your Honor?

THE COURT: Please.

DIRECT EXAMINATION CONTINUED

BY MR. KINGHAM:

Q Miss Torres, after the date your your wedding to Tommy Hu on July 19, 1973, when was the next time that you saw Jean Fong?

A After the wedding?

Q After the wedding.

A About a few days later or a day after she came to my house.

Q Where was your house then?

A I was in 2185 Valentine Avenue.

Q When did you next see the lawyer, Gene Chu?

A I seen him, let me see, I seen him, I believe, when the letters came in that we had to go to the immigration for the interview.

Q Did there come a time when you moved to Brooklyn?

A Yes.

Q Do you remember when that was?

A After Carmen Miranda got married.

Q Is that Tracy?

A Tracy, yes.

MR. CONCANNON: Excuse me, your Honor. I am having a great deal of difficulty hearing the witness. Can she be asked to project?

THE COURT: Yes. Speak up, please, so the persons seated in the back of the room can hear you clearly.

Q Do you know what Tracy's husband was?

A John Jout.

Q What address did you live with Tracy at?

A 959 East 108th Street in Brooklyn.

Q Did you ever live at 728 East 187th Street in the Bronx?

A No, sir, no.

Q Did you ever go up there?

A Yes, I did.

Q Did you ever stay overnight?

A Yes, I did. For three days before -- I stood three days there with Tommy Hu, we were like practicing before we went to the immigration, a week before we went to the immigration, so we were just practicing the apartment, and everything, you know.

Q Did anyone stay with you with Tommy Hu?

A Carmen Miranda.

Q Tracy?

A Tracy.

Q Anyone tell you to do that?

A Well, we were told for me and Tommy to get to know each other and to get to know the apartment and to rehearse it well by the lawyer.

Q Is that Gene Chu?

A Yes.

Q Did there come a time when you met a man named Jimmy Yu?

A Yes.

Q Do you see that man in the courtroom?

A Yes, I do. Sitting right there.

MR. KINGHAM: Indicating the defendant Jimmy Yu, your Honor.

THE COURT: The record may so reflect.

Q Was that before or after you moved to Brooklyn that you met Mr. Yu?

A That was after I moved to Brooklyn.

Q Where did you see him?

A I met him once in a restaurant, the Lantern House.

Q I am sorry?

A In a restaurant that he worked in.

Q Do you remember the name of the restaurant?

A The Lantern House, something like that.

Q Where was this restaurant?

A I can't remember the exact address. Somewhere on 10th Street.

Q In Manhattan?

A Yes.

Q On the east side or the west side?

A I believe it was the east side. I am not sure.

Q How many times did you see Jimmy Yu at that restaurant?

A I only saw him about -- I believe it was three times. I am not sure. About three times, I think.

Q On the occasions that you saw him there, who was with you?

A Carmen -- Tracy. Carmen Miranda.

Q Do you recall what happened on those occasions?

A Yes. Tracy went over there to get some money that was supposed to be given to her.

Q Did she obtain money?

A Yes, she did.

Q Who gave her the money?

A Jimmy did. Jimmy Yu.

Q Cash or check?

A I think he gave her a check.

Q Do you recall any specific conversations that either you or Tracy had with Jimmy Yu at those meetings?

MR. FLEMING: Your Honor, we object to this, on Mr. Chu's behalf.

THE COURT: The evidence that the witness is about to give respecting a conversation at which only one of the three defendants took place will be acceptable as evidence against that defendant only, unless and until the jury shall find that there was a conspiracy among the defendant who participated in the conversation and the other defendants, and that the conversation was in pursuance of that conspiracy.

You may answer the question. Would you like it re-read?

(Record read)

A All I can remember is Tracy was talking to Jimmy about where John was, and that she had wanted to get in touch with him, and right now I can't remember anything else.

Q Was there any conversation about girls?

A Yes, there was a conversation about one girl that they needed, somebody, I think her name was Lisa. That was Tracy and Jimmy discussing that.

Q Did there come a time when you were interviewed by the immigration service with Tommy Hu?

A Yes, there was.

Q Do you recall what date that was?

A I believe it was the 30th, January 30th.

Q Of what year?

A 1973 or '74. I am not sure.

Q Let me show you what's been marked Government's Exhibit 1 for identification, calling your attention to the second page and the second paragraph. Just look at that and read it to yourself, if you will.

A January 30, 1974.

Q Please speak up, Miss Torres, because I can't hear you back here.

A January 30, 1974.

Q Between the date of your wedding in July, 1973 and the date of your interview at immigration in January, 1974, did you see Gene Chu at all?

A Yes, I did.

Q About how many times?

A I think we saw him around four times, two times.

Q Excuse me. Who was present when you saw him?

A Tommy Hu and Carmen -- Tracy was present at I think once or twice.

Q Do you recall any specific conversations when Tommy was present?

A Yes. We used to go over the things that we were supposed to know for when we went to the

immigration.

Q Do you recall what was said at those conversations?

A Well, we were being asked questions by the lawyer, like, you know, if I knew the apartment, the things in the apartment.

Q Did you give answers?

A I would give answers, yes.

Q Was Tommy Hu also asked questions?

A Yes.

Q Did he give answers?

A Yes.

Q Were there any questions about about how you met Tommy Hu?

A Yes, there was. We had to find a story of how we met, and I had made a story that we had met in a friend's house, this girl named Saleno, that I know.

Q Did you tell that to the lawyer?

A Yes.

Q Was that true?

A It wasn't true.

Q Where did you meet your husband?

A In the lawyer's office.

Q Was there any conversation about legal fees?

A Yes, there was a conversation, in case -- this was before we went to the immigration, the morning before we went also, that request they had asked us how much did the lawyer get, we are supposed to say a certain amount of money.

Q Do you recall what amount that was?

A I can't remember if it was $500 or $700, and we are supposed to say that he gave the lawyer half --

Q Who gave the lawyer half?

A Tommy.

Q Who told you to say that?

A The lawyer.

Q Is that Gene Chu?

A Yes.

Q Do you recall any conversation about your keys?

A Yes, I had a set of keys that was new, and you can tell that it wasn't used that much.

Q Keys for what apartment?

A For the apartment that I was supposed to be living in.

Q Where was that?

A On 728 187th Street.

Q In the Bronx?

A Yes.

Q What was --

A The key was new.

Q I am sorry, go ahead.

A The key was new, so it had to be used a few times

Q Who told you that?

A The lawyer had told me that it was too new, the key, because Tommy had just gave it to me.

Q Did he show it to him?

A Yes.

Q Please speak up. The lawyers at the end of the table have to be able to hear also.

Q How many such conversations or conversations like thta did you have with Gene Chu in his office?

A About four of them, three or four of them, like I said.

Q Was that in the period before you went to the immigration service for your interview in January, 1974?

A Yes.

Q On the day of that interview, that is January 30, 1974, where did you meet?

A In the lawyer's office that morning.

Q Who met there?

A We met at 8 o'clock in the morning. Tommy, myself and the lawyer was there.

Q Was there any conversation at that time?

A Yes. There was one conversation. We rehearsed a little bit more for a while --

MR. SPRIZZO: Your Honor, I can't hear that answer.

A (Continuing) We practiced a little bit more for a while and then he told us to make sure we didn't say that we left this morning from the lawyer's office.

Q Who said that?

A The lawyer had told us to say that.

Q Was there any more conversation about your keys?

A Yes. My key was loose, I didn't have it on the chain, or anything, it was just one single key, so he had gave me something to put it in, like chain.

Q Who gave that to you?

A The lawyer.

Q Did you then go to the Immigration offices?

A Yes.

Q Was that over here on West Broadway?

A Yes.

Q What happened there?

A I went, I walked in with Tommy, and we walked in like, you know, we were really married, and we waited until we were called, and then I had the interview by a lady.

Q Who was with you while you were interviewed?

A The lawyer was with us, and Tommy.

Q Where was Tommy?

A Tommy was sitting outside while I was being interviewed.

Q Do you recall what you said at the interview?

A Yes. She started asking me questions, and I was answering them.

Q Were you asked questions about you met?

A They asked us how we met, I told her that I met at a friend's house, a friend named Saleno. They asked us who got to this morning first, they asked me all kinds of things. Things about the apartment.

Q Did you tell the truth?

A Yes -- well, it was supposed to be the truth to them, you know, but it wasn't really the truth.

Q What did you say that was not true?

A Everything was not true because I did not live in the apartment, you know, and I didn't -- I got married because, you know, I got married for the money. I didn't get married because I loved him, or anything.

Q Did you tell the Immigration officer that you got married because you loved him?

A Yes.

Q How long did your interview take at Immigration?

A It didn't take long. It took about 20 minutes, 15 minutes, I believe.

Q After you finished with your interview, what happened?

A Then they called Tommy, and Tommy -- it took only ten minutes.

Q Where was the lawyer during Tommy's interview?

A I believe the lawyer was with Tommy also.

Q After the interview, where did you go?

A After the interview? We went downstairs and the lawyer had told me that I did well --

Q I am sorry, I didn't hear you.

A The lawyer had told me that I did well, and then I went home.

Q Where was home then?

A That was 959 East 108th Street, Brooklyn.

Q Did Tommy go with you?

A No.

Q Do you know where he went?

A No, I don't. I think he went to work, because he used to work down there.

Q After that day did you live with Tommy at 187th Street?

A No.

Q Did you live with him in Brooklyn?

A No.

Q Whom did you live with there?

A Carmen Miranda.

Q Tracy?

A Tracy.

Q After that or during that period, did you receive

money from Tommy?

A Yes.

Q How much did you get from him?

A I used to receive $150 a month.

Q Do you know how much you got from him in all?

A I can't really tell you. I know that I didn't get all the money, you know, I think I got around $3, 350 or $250, I am not sure.

Q Does that include the $1,200 you got on the day of your wedding?

A Yes.

MR. KINGHAM: Your Honor, at this time the Government would offer into evidence Government's Exhibit 10 for identification, which is the subject of a stipulation.

MR. SPRIZZO: No objection.

(Government's Exhibit 10 was received in evidence.)

xx MR. KINGHAM: Your Honor, if I may, from the stipulation, which was Government's Exhibit 51, it was stipulated that Government's Exhibit 10 is a file copy of a letter which was retained in the regular course of business of the Immigration Service, and that the phrase "cc" before the name "Gen Loy Chu" and his address reflects that a copy of the letter was sent to him

If I may read from Government's Exhibit 10 --

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 10 in evidence to the jury.)

BY MR. KINGHAM:

Q Did you receive a copy of that notice, Miss Torres?

A I didn't receive it. Tommy received it. It was sent to his address.

MR. KINGHAM: May I have this marked as Government's Exhibit 52 for identification?

(Government's Exhibit 52 was marked for identification.)

xx Q I show you what has previously been marked Government's Exhibit 52 for identification. Take that in your hand, if you would.

Will you look at that and tell me if you recognize that document?

A Yes. This is a letter that Tommy had sent me after he had received that letter.

Q How do you recognize this as the letter you received from Tommy?

A Because that's his handwriting and I know his handwriting, and I remember receiving the letter.

MR. SPRIZZO: May I have that answer read back?

THE WITNESS: I remember receiving that letter. That's his handwriting.

Q What did you do with the letter after you received it?

A I put it away. I read it and put it away.

Q Did there come a time when you turned it over to the United States Attorney's office?

A Yes, I did.

Q When was that?

A That was I believe a few weeks ago.

Q Calling your attention to these initials and the date, does that refresh your recollection as to when you turned it over?

A Yes.

Q When was that?

A 5/3/76.

Q May 3, 1976?

A Yes.

MR. KINGHAM: Your Honor, Government's Exhibit 52 for identification is offered as Government's Exhibit 52.

MR. SPRIZZO: Your Honor, may we approach the bench?

THE COURT: You may.

(At the side bar.)

MR. SPRIZZO: This is a blatantly inadmissible document. It is apparently written by Tommy Hu after the conspiracy is over, after the indictment. It cannot be in furtherance of any conspiracy, blatant hearsay and not admissible. I am surprised the Government offered it.

MR. KINGHAM: First of all, your Honor, to take away Mr. Sprizzo's surprise, the witness has identified this as a letter she received following the receipt of the notice in April of 1975 to Tommy Hu, after that time. The contents of the letter, as the Court will see, referred to -- I am sorry, in February of 1975.

The contents of the letter referred to the February, 1975 notice that I have just placed into evidence, which puts it in context. The date May 3, 1976 was placed on there by the witness to indicate what day she turned it over to me in the office. The next day I turned a copy of this letter over to defense counsel.

MR. SPRIZZO: I never saw it.

MR. KINGHAM: I gave it to Mr. Lauer with the other papers. In any event, it is clear, I think the Court should read the letter, it is clear that this is a statement by a co-conspirator, Tommy Hu, in furtherance of the conspiracy with respect to what should happen after

the receipt of that notice for an intervi w on February 13 for an appointment which they missed and subsequently spoke to he lawyer Gene Chu about.

THE COURT: Is the letter dated?

R. KINGHAM: It is not, your Honor. It makes reference to the February 13 -- the notice for a meeting at Immigration on the 13th of February. She testified that that s when she received it. It is not dated on the letter.

(Pause.)

THE COURT: I think this is clearly in furtherance of the conspiracy and while the conspiracy was still in being.

MR. SPRIZZO: I misunderstood the testimony, your Honor. That is why I made the objection. I thought she said it was sent on May 3.

As far as I am concerned, this is the type of evidence which if admitted, even a subject to connection instruction will not cure the prejudice. We have to object on our standing objection. If your Honor sees fit to admit it, we also have to move for a mistrial, if and when it is read to the jury.

MR. FLEMING: I'd like to know where Tommy Hu is.

MR. KINGHAM: We have made efforts to locate

Tommy Hu and, indeed, all of the other aliens named in the indictment, and have been unable to find him.

MR. FLEMING: Has he been ordered deported?

MR. KINGHAM: As far as I know, he is under deportation proceedings, but I think he is out on bond and we cannot find him.

MR. FLEMING: It seems to me we have a witness which obviously we do not have the power to locate --

THE COURT: Apparently the Government does not have that power either.

MR. FLEMING: So you have a hearsay declaration, not subject to cross-examination, which I think is well past the period of the conspiracy, if it was written in 1975, since these marriages took place in 1973 and the Immigration --

THE COURT: This is not hearsay in the sense that the Government is relying on it for the truth of the statements made herein. These are, really, instructions to her to do certain things in furtherance of the conspiracy. The Government is not relying on the truth of any statements of fact made therein, but only upon the fact that they were made as instructions to the witness to do certain things in furtherance of the conspiracy.

MR. KINGHAM: These instructions were given in

furtheran e of the conspiracy, I think that is clear. There is re lly nothing in here that, you know, raises an issue of omething being true or not.

THE COURT: That is just what I said. I will admit it and I will instruct the jury that they will take this as e idence only if and when they find that there is a conspirac and that her letter was writ n in pursuance of the objec ives of the conspiracy.

MR. FLEMING: Will your Hono also tell the jury that it is not being received for the truth of the declarati ns made therein?

THE COURT: Yes.

R. FLEMING: That's correct. It is offered as a statement made --

THE COURT: Merely the fact t at the instructions were given.

MR. CONCANNON: Your Honor, may the record reflect tha Gene Fong joins in the objection to the introduction of tha letter.

THE COURT: Yes.

(Continued on next page.)

(Open court.)

MR. KINGHAM: Your Honor, the Government would then offer Government's Exhibit 52 for identification as Government's Exhibit 52?

THE COURT: For the record, all three defendants have objected to the introduction of this exhibit on the ground of hearsay, and I am admitting it for the limited purpose of showing that the statements in the letter were made. Not for the purpose of showing the truth of any of those statements.

This is a letter received by the witness from the man she married, in which he makes certain suggestions or gives her certain instructions to prepare for an anticipated hearing before the Immigration & Naturalization Service.

These statements are not admissible against any of the three defendants unless and until the jury finds that there was a conspiracy between the writer of the letter and the defendant in question, and that the letter was written to further the purposes of the conspiracy.

(Government's Exhibit 52 was received in evidence.)

xx MR. KINGHAM: May I read Government's 52 to the jury?

THE COURT: You may.

(Whereupon Mr. Kingham read Government's Exhibit 52 in evidence to the jury.)

BY MR. KINGHAM:

Q Now, Miss Torres, after receiving that letter in February 1975, did you have occasion to see Gne Loy Chu, the lawyer, again?

A Yes. Tommy had came about a week or two weeks after I received that letter, he came and he wanted to see the lawyer. So we went to his office to see the lawyer and it seemed like the lawyer wasn't too happy, you know --

Q What did the lawyer say?

A He suggested that we get a divorce.

Q What did you say?

A Sure, I wanted a divorce.

Q What did Tommy say?

A He didn't want a divorce. He wanted to see if he can get his citizenship card.

Q Had you ever spoken about divorce with Gene Chu prior to that conversation?

A Yes.

Q When was that?

A That was when we first, you know, met -- we were

talking about the arrangements of the money and then he had told me that, you know, "After you get married, after a year or so after he gets his card, you can get divorced." That was the only time.

Q That was the first time you met him?

A Yes.

Q In 1975, after you and Tommy went to his office and talked about divorce, did you get divorced?

A No, I never.

Q Did you ever see Tommy again, after that?

A I haven't seen Tommy again.

Q Did you ever see Gene Chu again?

A Yes, I did see him.

Q Do you remember when that was?

A I believe that's when Carmen Miranda was going -- Tracy was going to see the lawyer concerning a divorce that they were going to go through with her husband.

Q Do you recall when that was?

A I don't really remember the date.

Q Was that before or after the time you went with Tommy to talk about divorce?

A That was after.

Q About three or four months after?

A Yes.

Q In 1975?

A Yes, this was in 1975.

Q Who was there at the lawyer's office when you saw him that time?

A Myself, Carmen Miranda, John Jout and his sister, and the lawyer.

Q Was John Jout Tracy or Carmen's husband?

A Yes.

Q Was there a conversation in your presence at that time?

A Yes. They were discussing a divorce for Tracy.

Q What happened?

A All of a sudden there was a phone call from somebody and the lawyer answered the phone.

Q Do you recall what the lawyer said?

A He wasn't saying much. It was just his expression on the face that I saw, you know. I didn't know who was on the phone, but then all of a sudden he gave -- no, he did say something, "What are you talking about?" to the other person on the phone.

All of a sudden he gave the phone to Tracy and the next thing I know Tracy says, "Come on, let's get out of here."

So we just left the lawyer's office.

Q Where did you go?

A I went to Pitt Street and Delancey.

Q Pitt Street?

A Yes.

Q How long did it take you to get there from the lawyer's office on Division Street?

A Not long. It didn't take me long. We even walked. It took us about 10, 15 minutes.

Q Who did you see at Pitt Street?

A Alicia Aviles.

Q Alice Aviles?

A Yes.

Q Where did you see her?

A Right there on Pitt Street, outside on the street.

Q In the street?

A Yes.

Q Did you speak with her?

A Yes. I spoke with her and I asked her what happened.

Q Without telling us what she said, did there come a time when Gene Chu came to Pitt Street?

A Yes.

Q How --

A He came about five minutes after I was there. He was right there in his car.

Q Did he come on foot or in a car?

A In a car.

Q Was he alone or with people?

A He was alone.

Q Do you remember what the car looked like?

A It was a light color.

Q Big or small?

A A big car.

Q Where were you when he came up in the car?

A I was talking to Alice. I was on the sidewalk and he was double parked.

Q Did you hear him say anything?

A Well, see, like he was calling us, but we wasn't paying him no mind, you know, after the way I saw things were, I didn't know what was going on.

Q What did you do?

A There was a double car -- double parked car in front of him that we went inside for a while.

Q Who is "we," Miss Torries?

A Me and Carmen Miranda.

Q While you were in that double parked car, did you hear what was happening in Gene Chu's car?

A Well, I heard there was, you know -- Tracy -- I mean Alice and him were just talking and it seemed like they were a little -- a little argument or something, and Alice -- it seemed like Alice was asking him for money or something, I'm not sure.

Q Did you hear him say anything?

A Well, see, I just stood in the car. I couldn't hear any more.

Q Did there come a time when you got out of the car that you were in?

A I got in -- out once, but I went back in.

Q Where did you go when you got out of the car?

A I was standing next to Alice's uncle.

Q Where was he?

A They were right there on the sidewalk, they were playing cards outside.

Q Did you speak to Gene Chu on Pitt Street at that time?

A Not really, I didn't speak to him.

Q What happened after Alice finished talking to him?

A I'm trying to remember if I spoke to him, of course I do remember saying one thing to him.

Q What did you say?

A I'm trying to remember. Yes. He had told us why did we leave the office, and I said, "Listen, I don't know what is going on, I mean, Alice called us out and told us that they were going to try hurting us or something." I didn't know what was going on.

Q Did you say that to him?

A Yes. And I didn't want to talk no more.

Q What did he say?

A He was just -- just started talking to Alice, and I think another lady that was there.

Q Did there come a time when you left?

A Yes. I think so -- yes, he had left. Then we had left. I don't know if we left first or he left first.

Q After that day on Pitt Street in 1975, did you see Gene Loy Chu again?

A Yes.

Q When was the first time you saw him, when you came to this courtroom yesterday?

A Yes.

Q Since that time in 1975?

A Since that time, yes.

Q Have any promises been made to you in connection with your testimony here today?

A The only promise was I wasn't going to be prosecuted if I told the truth.

Q Prosecuted in connection with the marriage, is that correct?

A Yes.

Q And do you understand that you could be prosecuted for perjury if you should lie under oath?

A Yes.

Q Are you presently facing criminal charges in the State of New Jersey?

A Yes, I am.

Q Do you know what those charges are?

A Well, I was -- it was supposed to be for possession of pills.

Q I didn't hear you?

A Possession of pills.

Q Have you also been charged in New Jersey with the possession of a stolen credit card?

A And then they had something about a credit card.

Q Have any promises been made to you --

A No.

Q -- in connection with those charges?

A No. No promises at all.

Q Were you recently arraigned on those charges in New Jersey?

A Yes.

Q Those charges date back to 1971 and 1972, do they not?

A '72.

Q Were there warrants for your arrest in connection with those charges?

A Yes, there was two warrants.

(Continued on next page.)

Q Did the United States Attorney's office arrange to have you voluntarily appear in court in New Jersey to answer those warrants?

A Yes.

Q Were you subsequently released in your own recognizance after you --

A Yes, I was.

Q -- you were arraigned on those warrants?

A Yes, I was.

Q Were you advised, Miss Torres, before the arraignment on those warrants by the United States Attorney's office thatyou probably would be released in your own recognizance?

A Yes.

MR. KINGHAM: I have no further questions.

CROSS-EXAMINATION

BY MR. SPRIZZO:

Q Try and keep your voice up so that we can all hear.

Did I understand your direct testimony to be that you are still married to Tommy Hu?

A Yes, I am.

Q What name do you use, Mrs. Hu or Torres?

A Torres.

bsr2 Torres-cross

Q Have you ever used Hu in any connection?

A I can't remember if I ever used it. I usually don't use it at all.

Q Did you use it in any credit connections?

A Credit, no.

Q Credit cards?

A No.

Q You've never used the name Hu?

A No, not in credit. I can't remember if I used it on anything else, but not on credit cards or anything, because I don't have any credit cards.

Q But it's possible you might have used the name Hu?

A I don't have any social security under that name.

Q That's not the question.

A I can't remember. The only time I used it I htink is when I got married, that I signed that paper.

Q Do you remember talking to some gentlemen who were retained by the defendant Gene Chu?

A Yes.

Q Was that Mr. LaRocca?

A I believe so.

Q Do you remember whether he asked you whether or not you had used the name Hu?

A Yes.

Q Do you remember your telling him you didn't want to tell him?

A No, I didn't tell him that. I told him that I didn't use the name Hu.

Q You didn't tell him that you didn't want to say whether you used the name Hu or not?

A I didn't tell him that. I don't remember telling him that. I told him I don't use it.

Q Do you deny it under oath?

A I'm sure I don't use the name Hu.

Q Now, you testified, as I recall your direct testimony, at this last meeting you had with Gene Chu, when you were discussing the divorce -- is that correct?

A Yes.

Q -- and this telephone call came in?

A Yes.

Q Was it your testimony that Alice had said something about Gene Chu wanting to hurt the girls or something?

A Well, that's what I was told, yes.

Q That's what you were told later?

bsr4 Torres-cross

A That's what I was told by Alice.

Q Later on?

A That day, that phone call came and I met her.

Q Did I understand your testimony to be that Mr. Chu said at the time the phone call was received "What are you talking about?"

A Something like that, yes.

Q He did say that, didn't he?

A Something like that.

Q You gave some testimony on direct examination, as I recall your direct testimony, about the number of places where you lived during the year '73. And I believe you testified you lived on Third Street?

A With Alice Aviles, yes.

Q When did you live there?

A That was before I got married.

Q How soon before you got married?

A I lived there about -- with Alice for around a month, that is all I lived there for, around a month.

Q Then you testified that you lived at 2185 Valentine Avenue?

A Yes, I did. That's after I met Tracy. I just had met Tracy during those days.

Q When did you move from Third Street to 2185 Valentine Avenue?

A I moved there, I believe, about two weeks or a week before Carmen Miranda got married.

Q About two weeks before you got married?

A No, before I got married, I think it is. I'm not sure.

Q How long before you got married?

A Wait a minute, I am trying to think if it was before Carmen -- wait a minute.

(Pause)

A It was only about -- not before I got married, wait. I can't remember, really. Yes, it was a few weeks before I got married, because them Carmen Miranda got married and we moved to Brooklyn.

Q Did you move to Valentine Avenue before or after you met Gene Chu?

A No. I was living on Third Street. When I met Gene Chu, on Third Street.

Q You were living on Third Street?

A Yes.

Q And when you met Gene Chu, did he ask you where you could be reached?

A Sure, he asked me.

bsr6 Torres-cross

Q What address did you give him?

A Since I was going to move to the Bronx, I told him, get in touch with me -- first I told him to get in touch with me with Alice, but then when I decided to move I told him I'll be in the Bronx, and we had a phone there he could call and get in touch with me over there.

Q So you gave him the 2185 Valentine Avenue address?

A I told him that, too, yes.

Q Was that address you used on your marriage license?

A I can't remember what address I used.

MR. SPRIZZO: Can we have the marriage license?

Q I show you Government's Exhibit 13.

MR. KINGHAM: Do you want the application or the license, Mr. Sprizzo?

MR. SPRIZZO: The application.

Q What address did you use?

A 2185 Valentine Avenue.

Q Were you living there then?

A When I got married?

Q When you filled out this paper.

A Yes. Sure.

Q You remember being interviewed by Mr. Hittelman, do you not?

A Yes.

Q Is he the gentleman sitting here at the table?

A Yes, he is.

Q Do you recall when that was?

A What day? I don't remember.

Q Approximately --

A I don't remember exactly. I don't remember exactly. It was a few months back. I don't remember what day.

Q Did I understand your direct testimony to be that when you first met Gene Chu -- who did you say was present?

A Jean Fong.

Q Anybody else?

A I can't remember if Alice was with us that day, I really can't.

Q Was Tracy with you?

A No, I don't think Tracy was with me that same day. I'm not sure.

Q Was the date that you were interviewed by Mr. Hittelman on July 28, 1975?

MR. KINGHAM: We will stipulate that it was, your Honor.

THE COURT: Very well.

Q How did that interview take place, was he asking you questions or were you giving him a narrative statement?

A What interview?

Q He was asking you questions --

A What interview are you talking about, the one with Gary?

Q The one with Mr. Hittelman, yes.

A Well, he came and he asked me, he told me, tell me exactly what happened.

Q Did you narrate it or did he ask you questions and you answered questions?

A He first asked me a few things and I started lying to him and then after I seen that things were really bad then I started cooperating and I started telling him the truth.

Q At what point in the interview did you decide to stop lying?

A Well, I wasn't telling him the truth, at first I was going to tell him that, you know, that I did get married to Tommy because I loved him and what-not,

but then I noticed that everything seemed like, you know, it was going wrong, so I told him the truth, I just decided to tell him the truth.

Q Did he tell you, Miss Torres, that you were in trouble?

A Well, he told us that -- he just told us that -- I can't remember exactly what he told me.

Q Do the best you can.

A He had told us -- to begin with, Alice Aviles, I remember seeing her one time before that, and she had told us also that there is going to be two people that are going to speak to --

Q Will you answer my question?

A I am trying to answer --

Q I asked what Mr. Hittelman told you.

A I can't remember what he told me. I can't remember everything.

Q Did he tell you you were in trouble?

A Sure, he told us that.

Q Did he tell you you might be prosecuted?

A He didn't tell me about prosecuted yet.

Q Did he tell you that you had participated in what he thought was a phony marriage?

A He knew that -- he told us that, yes.

bsr10 Torres-cross

Q Did he tell you that your participation in what he thought was a phony marriage might render you liable to prosecution, in words or in substance?

A He didn't tell us anything like that.

Q What did he say?

A He just was talking to us and asking us questions and I told him everything.

Q First you said you were lying to him, right?

A Yes, but then after that I started telling him, you know, Tracy already had talked to them and told them everything, so I had no other choice but to tell him the truth.

Q Did he tell you that Tracy had told him a certain set of facts?

A No, Tracy had told me herself.

Q He didn't tell you that?

A No, because I lived with Tracy, so she told me.

Q Did he tell you when you first started your interview that he thought you were lying?

A When he first interviewed me?

Q When you first started answering the questions and according to your testimony you were telling him lies.

A He told me that at first, you know, he had an idea that I was lying.

Q So he told you he didn't believe you, basically?

A He didn't tell me exactly that. It's just that we started telling him the truth and then he realized --

Q Were you under oath when you began telling him those lies?

A No.

Q You were not sworn on this interview?

A What interview? I don't even know what interview that was.

Q We are only talking about one interview with Mr. Hittelman.

A I seen Mr. Hittleman so many times, four times, five times.

Q Was that the first time you saw him?

A The first time I saw him I believe was in his office.

Q That's the interview I'm talking about. Is that when you gave the statement?

A Right, that's when I went in there and gave the statement, yes.

bsr12 Torres-cross

Q When you sat down did he swear you?

A Did he? I don't remember. I think so. I'm not sure.

Q After he swore you you started telling him some lies. right, according to your testimony?

A Did I start telling him lies?

Q You started telling him some lies, according to your testimony?

A Well, I wasn't really -- like, I was throwing in things everything wasn't a lie, I was just trying to, you know, change the story around, but then, you know, I didn't have no other choice, but I don't think he swore me that day.

Q He didn't?

A No, I don't think so.

Q If you look --

MR. SPRIZZO: Can we have this marked for identification.

A And they weren't really --

Q There is no question pending.

(Defendants' Chu Exhibit 8 was marked for identification)

Q Would you look at that and see if that refreshes your recollection as to whether you were sworn?

A Yes, yes, I remember that he told me that, you know, as it goes on, the story starts getting more truthful.

Q My question is, you have a recollection that you were sworn?

A Yes, I remember this.

Q That is all I asked. And do you recall telling Mr. Hittelman that when you first met Gene Chu that Tracy was with you?

A When I first met Gene Chu?

Q The first time you met Gene Chu.

A That Tracy was with me?

Q Yes. Do you remember telling him that?

A I believe I had told him one time, yes, and then I had told him I don't remember. As I was talking I was trying to -- things were coming back to me, you know, and then I realized that she wasn't with me the first day. It is just that I got confused.

Q Is it your testimony that at some point in this interview you told him that Tracy was not with you?

A At some point I thought she was with me and sometimes I told him she wasn't. I couldn't remember everything.

Q Have you ever read this statement?

A Y-s, I read it.

Q Have you read it recently?

A Yes. Recently?

Q You say you said in this statement that Tracy was with me.

A In some places she was with me, yes.

Q Maybe you could find it for me.

A That she was with me when I was writing the statement?

Q No. When you first went to see Gene Chu.

A I told you that I couldn't remember if she was with me or not.

Q My question was did you tell Hittelman that she was with you?

A I told him I couldn't remember if she was with me or not.

Q Would you direct yourself to page 2 of this statement?

A I can't remember right now.

Q Right where the brackets are.

A Yes, but I believe there is other pages there that says she wasn't.

Q Could you find those for me?

A I don't know.

Q So you did tell Mr. Hittelman that Tracy was with you the first day you saw Gene Chu?

A Listen, I don't remember who was with me. I just remember getting my money. That is all I remember.

Q You got your money the first day?

A No. I got it right after I got married. A few hours, right after I got married.

MR. CONCANNON: Your Honor, it is extremely difficult to hear her undre normal circumstances --

THE WITNESS: That I got my money right after I got married. Not even a half hour after I got married.

Q Getting back to this question whether you used your maiden name or your married name, do you deny on your oath that you told Mr. LaRocca that on occasions you used your maiden name and other times you don't, but you wouldn't elaborate?

A Listen, I don't remember using my marriage name for anything, not even for the jobs that I have had.

Q That's not my question. My question is do you deny telling thatto Mr. LaRocca?

A I remember telling him telling him that I don't use my marriage name.

Q That's what your recollection is?

A That's what I remember. I thought I remember telling him.

Q You deny telling him that you use your maiden name on occasions, other times you don't?

A Listen, I don't remember what I told Mr. --

Q The question can be answered yes or no.

A I don't remember what I told him.

MR. KINGHAM: Objection, your Honor.

MR. SPRIZZO: That question can be answered yes or no.

MR. KINGHAM: I object to the colloquy.

MR. SPRIZZO: I am entitled to my answer.

MR. KINGHAM: I object to that too.

THE WITNESS: I don't remember.

Q When did you first meet Alice Aviles?

A I know Alice Aviles for a very long time.

Q When did you first meet her?

A God, around -- I can't remember. About seven years ago, eight years ago. I don't know.

Q How did you meet her?

A If you want to know, I am gay and I used to ee her. That's right.

Q How did you meet her, at a bar?

A In a bar? I met her I think in one of hte lubs tha: we go to.

Q How long did you know her?

A I know her well enough. Well enough.

Q Were you employed at the time you met Mr. hu?

A Was I working?

Q Yes. Did you have a job?

A No, I wasn't working.

Q Are you working now?

A I was working, but I just got laid off.

Q You testified today that Mr. Chu mentioned a ivorce to you on the first time that you met him, is hat correct?

A Yes, he had mentioned a divorce.

Q You didn't tell us that yesterday.

A I didn't tell you people a lot of things. dind't have to talk to you, remember.

Q You didn't remember it yesterday?

A I didn't have to talk to you.

lhr6 Torres-cross

Q Excuse me. I didn't get that answer.

A When, yesterday when I was here?

Q Yes. You didn't mention anything about Mr. Chu saying anything about a divorce yesterday in your testimony?

A Listen, I don't remember a lot of things. I mean, this happened three years ago, or what.

Q What refreshed your recollection this morning? Did Mr. Kingham talk to you overnight?

A I talked to Mr. Kingham when I saw him, but that's not --

Q Did he tell you that you forgot to say about divorce in the first conversation?

A I even remembered that when I took the train.

Q My question very simply is overnight you have had a change of recollection. What I am trying to ask you is, did Mr. Kingham speak to you overnight about that particular question?

A Overnight? He spoke to me this morning when I saw him.

Q Did he talk to you about the question of whether Mr. Chu had mentioned a divorce?

A He had asked me what happened, you know,

that is all.

Q What happened, that you had forgotten it?

A Yes, I did forget. I forgot everything. I mean, it is my first time on the stand.

Q But you didn't tell us that yesterday?

A I didn't tell you a lot of things I remember today.

Q You testified, as I recall your testimony this morning, about certain preparation sessions you had for your interviews at the INS, is that correct?

A Yes.

Q And you testified this morning, as I recall your testimony, that Mr. Chu said to youin words or in substance, "You will have to come up with a story as to how you met," is that what you testified to?

A That's right. I wouldn't know how to do it, if it wasn't for him telling me.

Q That's your testimony?

A That's what he had told me.

Q I take it when you spoke to Mr. Hittelman, on I guess it is July 28, 1975, before you signed your statement, you had decided to tell all the truth, isn't that correct?

A Before I signed it?

Q Yes. Before you signed it.

A When I started signing it, it wasn't exactly, you know, the way the story went because I wasn't remembering everything part by --

Q No, my question is, the reason why I put the questio --

MR. KINGHAM: Objection, your Honor.

Q -- you have testified that in the early part of the interview you told him a few lies, right? Isn't that your testimony?

A That I told a few lies?

Q When you started out talking to Mr. Hittelman you were telling him lies, right?

A It wasn't exactly lies. It's just that I wasn't remembering the story straight and I wanted to put it right.

Q At some point in that interview I think you testified you decided you were going to tell him the truth, right?

A I told him everything. I told him the truth. And I am telling the truth.

Q When you signed the statement, my question is a very simple one, at the time you signed that statement you had decided to tell the truth?

A I can't remember when I decided to tell the truth. I was telling the truth. I was just not saying it right. Do you understand?

Q Can you find me in your statement to Agent Hittleman one sentence, one comma, one paragraph, in which you mention Gene Chu telling you during these interview sessions that you have to make up a story as to how you met?

MR. KINGHAM: I object, your Honor.

THE COURT: Sustained. The document speaks for itself.

MR. SPRIZZO: Will the government stipulate that it is not there?

MR. KINGHAM: The Government has no objection to the admission into evidence of Defendants' Exhibit A for identification.

MR. SPRIZZO: We don't have to offer it in evidence, your Honor, not the entire statement, because it is not here, and I represent that it is not here. If he is not willing to stipulate, then I will have to ask this witness to read it. I don't have to offer the document in evidence.

MR. KINGHAM: I will take Mr. Sprizzo's representation, your Honor. There is no need to --

MR. SPRIZZO: Will you so stipulate?

THE COURT: He said he would accept your representation.

MR. SPRIZZO: I want his stipulation.

MR. KINGHAM: I will stipulate.

BY MR. SPRIZZO:

Q So you never told Agent Hittelman abut this story you have told us this morning?

A I think there are things that I still haven't told him that I should tell him. Okay?

Q You also testified, as I recall your testimony this morning, that when you went to the interview you went to the interview you went to the lawyer's office, Gene Chu

said to you, "You will have to say that you slept together, that you didn't meet at my office," was that your testimony?

A Listen, that's right. That's the things that I was told.

Q And again I ask you, in your statement to Agent Hittelman, find one comma or one paragraph where you told that to Agent Hittelam on July 28, 1975.

A That's right, I told him.

Q You told him that?

A I didn't tell him exactly that. I just said we were supposed, you know, very -- when I went to the interview, I was supposed to be having sex and everything with him, and I never in my life did. Okay?

Q That's not my question. My question is a very simple one.

Did you tell Agent Hittelman on July 28, 1975 what you told this jury this morning about --

A Maybe I did not, maybe I did. I don't know.

Q Would you like to read it?

A I am saying, maybe I didn't. Today I remember everything. If you want, I will tell you more.

Q You answer my questions. If Mr. Kingham wants more, he can ask you more questions.

MR. KINGHAM: I object to that, your Honor, and

I will stipulate to what Mr. Sprizzo wants me to stipulate.

THE COURT: Yes. Confine yourself to asking questions --

MR. SPRIZZO: Your Honor, I am not getting responses --

THE COURT: Please, let me finish. Confine yourself to asking questions, ask them from the lectern, ask them in a normal tone of voice.

MR. SPRIZZO: Thank you, your Honor. I think your Honor will have to bear with me because I am not getting responsive answers.

THE COURT: Confine yourself to asking questions, please.

MR. CONCANNON: Your Honor, might I ask, do you have any influence or could you exert your obvious influence to possibly stop the pounding around the courtroom? I am having a terrible time hearing what is going on.

THE COURT: I am afraid I cannot stop the construction work that's going on. The contractor has got to finish construction by a certain date or pay a penalty. Do you think he is going to pay attention to a mere Federal judge? We will just have to bear with it. Anything that is masked by the pounding will just have to be repeated. I am sorry.

MR. SPRIZZO: I will try to talk as much as I can over it.

BY MR. SPRIZZO:

Q Mrs. Torres or Miss Torres, when did you first remember the testimony you gave this morning about Gene Chu at the interview session saying to you, "You will have to make up a story as to how you met"?

A That was the first thing I was told before I went to the Immigration, how did we meet.

MR. SPRIZZO: Will your Honor instruct the witness to answer my question?

Q My question is when did you first remember it.

A Listen, I don't remember exactly when. I am just answering. I am telling you, I remember him telling me that, you know, but I don't remember when, what date, or anything.

Q You didn't tell that to Agent Hittelman; is that correct?

A Tell him what?

Q So you didn't remember it on July 28, 1975; is that correct?

A Maybe I didn't. I mean, I didn't tell him everything.

Q You mean you were lying to him?

A No, there were some things I forgot.

Q That's my question. You didn't remember it on the July 28,1975 --

A Maybe I didn't. I don't know.

Q Did you remember it when you testified before the grand jury?

A As I am talking, I am remembering everything.

Q Did you remember this incident when you testified before the grand jury?

A Yes, but I don't think they asked me that.

Q When did you first tell Mr. Kingham about it?

A When did I tell Mr. Kingham about it?

Q Yes. When did you first meet Mr. Kingham?

A When I met him, about, I believe, two months, a month. I am not sure.

Q When?

A I am not sure when. A month ago or two. I don't know.

Q Was it within the last two months?

A I am not sure. I think.

Q When did you first tell Mr. Kingham about this incident --

A No, more than that.

When did I what --

Q When was it?

A I don't remember exactly. I can't give you the exact date.

Q Give us an approximate date.

A I know it was a few months back.

Q A few months back?

A Yes. I believe.

Q Was it before or after you gave the statement to Agent Hittelman?

A I don't know. I think that was after.

Q How soon after?

A I don't know. I think it was after.

Q Did you tell Mr. Kingham about this incident where Gene Chu, according to your testimony, said "You have to make up a story as to how you met" the first time you met Mr. Kingham?

A Yes. I believe I told him today too.

Q That's not my question. My question is, did you tell him that the first time you met him?

A I don't know if I told him, really, I don't.

Q And you have no --

A Maybe I did, maybe I didn't.

Q You have no recollection as to when you told him?

A (Nodding negatively.)

Q Would the same be true about your testimony about Gene Chu saying "Make sure you tell the INS that you came together"?

A That we what?

Q The day you appeared for the interview, I believe your testimony was, if I recall it correctly, that the day you met, Gene Chu said, "Now, make sure you tell these people that you came together rather than coming separately," isn't that what you said?

A When I had went to the Immigration with Gene?

Q The day of the interview.

A Here?

Q Yes. No, no, the day of the interview at INS.

A I don't remember none of that.

Q You don't recall your direct --

A I can't understand what you are trying to tell me, what you are asking me.

Q You gave us testimony this morning. Would you like to have it read back?

What was your testimony on direct examination about what happened on the day of the interview?

A The day of the interview?

MR. KINGHAM: I object, your Honor. The testimony speaks for itself.

MR. SPRIZZO: I am entitled to inquire on cross.

THE COURT: Read the question, please.

(Record read.)

THE COURT: Sustained.

MR. SPRIZZO: Then I think, your Honor, I would like to have the testimony read back, if we can find it.

THE WITNESS: On the day of the interview with the Immigration, you said?

MR. SPRIZZO: I will put the question another way.

Q The day you went to the Immigration Service, did you meet Mr. Chu at the Immigration Service?

A The day --

Q The day you went for the interview.

A Sure, I went to his office, early in the morning, 8 o'clock.

Q Tommy Hu was there?

A Tommy Hu, and he had told us to make sure not to say that we met him in his office.

Q That's the testimony I am trying to get. When

did you first tell that version of the facts to Mr. Kingham

A That I believe I told him a few times, I think.

Q You didn't tell it to Agent Hittelman on July 28, 1975?

A No.

Q Just slipped your mind?

A No. When I started talking to Mr. Kingham is when I started remembering a lot of things. Okay?

Q When you started talking to Mr. Kingham, then your recollection got refreshed?

A Yes.

THE COURT: If this is a good time, we will take our morning break. I will see if I can try and do something about the pounding. Ten minutes.

(Recess.)

(Open court.)

BY MR. SPRIZZO:

Q I think your testimony was, when we broke, the last question I asked was that you had -- a lot of these things you remembered when you spoke to Mr. Kingham, is that your testimony?

A Yes.

Q And he is the man who promised you immunity, is that correct?

A Promised me what?

Q Promised you immunity if you told the truth, in his judgment?

A Yes.

MR. KINGHAM: Objection, your Honor, to the last part of the question.

THE COURT: Sustained.

Q Did he tell you who would decide the question as to whether youwere telling the truth or not?

A If he told me what, excuse me?

Q He said you could get immunity if you told the truth, right?

A He told me I would not be prosecuted if I told the truth.

Q Did he tell you who would decide what the truth

was?

A He didn't tell me, he say if I say the truth, you know, that's all he told me. He didn't say anything else.

Q He didn't say anything else. But you knew he worked for the Government, right?

A If I knew, yes.

Q And you knew he had the power to to prosecute you?

A You answer me and I told you, that's the only thing he told me.

Q At least he said he had the power to give you immunity, if you told the truth?

A No, he just told me that I wouldn't be prosecuted if I told the truth, that's all he told me.

Q Did you talk to anybody over the recess, by the way?

A Did I talk to anybody?

Q Did you talk to either Mr. Hittelman or Mr. Kingham over the recess?

A Just now? No.

Q Not a word?

A No. I just went to get a cigarette from him.

Q Your testimony is you didn't speak to either

one of them during the recess?

A Just now, no, I didn't talk to them. I didn't ask them nothing.

Q Did he speak to you?

A Did he speak to me? No, he gave me a cigarette.

Q I am only asking you?

A No.

Q I believe your testimony on direct examination was that you -- did you get all the money you were supposed to get for this marriage?

A No, I didn't.

Q How much was owed to you?

A To this day, I still believe around $250 is owed to me.

Q So you didn't get all the money?

A No, I didn't.

THE COURT: Excuse me for a minute, Mr. Sprizzo.

(Pause.)

Q Did you tell Agent Hittelman on July 28, 1975 that "Tommy Hu paid me $150 a month, about the 19th or 20th of each month, until the balance of $2300 was paid off"?

A I believe I told him. I'm not sure. I believe I told him.

Q Would you like to look at the statement?

A I said I believe I told him.

Q You didn't tell Agent Hittelman that anybody owed you any money?

A Yes, he still owed me money.

Q You told him the balance was paid off, did you not?

A Everything wasn't paid off. Everything wasn't paid off. And I didn't know that everything wasn't paid off.

Q You didn't know that in July of 1975?

A No, until I started figuring it out.

Q You didn't know you had not received all the money you were entitled to receive?

A I had thought I got all the money, because I didn't keep, you know, track of the money, trusting them.

Q I believe you testified earlier that you remembered being interviewed by a man named Anthony LaTocca; is that correct?

A Yes.

Q And Mr. LaRocca told you that he was a private investigator who was working for Mr. Chu, isn't that correct?

A Yes.

Q And he asked you certain questions?

A Yes, he did.

Q And you agreed to speak to him voluntarily?

A Yes.

Q Do you recall Mr. LaRocca asking you whether or not Gene Chu had ever told you to tell any lies?

A Yes, I do.

Q Do you recall telling him --

A Yes.

Q -- that he never told you to tell any lies?

A I didn't tell him that. I'll tell you exactly what I told him. I said, well, I remember that when we had to go for the interview to the Immigration, that if we were -- would have said the wrong thing, he would tell us no, that can't be said. You have to say the right thing.

That's what I told him. If that isn't lying, what is it?

Q Your testimony is you told all of that to Mr. LaRocca under oath?

A Yes.

Q You never told him that Mr. Chu never told you to say any lies?

A I didn't tell him, no.

Q Did you tell him that Gene Chu never told you to tell any lies?

MR. KINGHAM: Objection. Asked and answered.

MR. SPRIZZO: I would liek to get the answer.

A That's exactly what I told him.

Q You told him what I just said?

A I just told him what I told you. I told him, well, I remember that when I went to the Immigration, if we were saying the wrong thing, he would correct us and say that can't be said. If that's not lying, what is it?

Q My question --

A I didn't answer no or anything.

Q Listen to my question and answer yes or no.

Did you tell Mr. LaRocca that Gene Chu never told you to tell any lies?

A I didn't mention -- say no or yes to him, I told him that. That's the same thing I'm telling you.

Q So your answer is you did not tell him that?

A I didn't tell him anything. I just answered him that. I told him take it from there. That's what I told him. I said what I just said.

Q You are certain that you never told Mr. LaRocca --

MR. KINGHAM: Objection.

THE COURT: The record is clear.

Q You never told him that?

THE COURT: Not in those words?

A Not in those words.

Q Okay.

Do you appearing before the grand jury?

A Yes, I did.

Q Did you appear before the grand jury on August 19, 1975?

A I believe so.

Q Does that refresh your recollection?

A I believe so.

Q Mr. Kingham was doing the questioning?

A Excuse me?

Q Mr. Kingham was doing the questioning?

A Yes. The date I went to the court he was -- yes. I think it was. I'm not sure.

Q You don't remember who asked you the questions?

A The day I went to the court it was somebody else asking me, wasn't it? No, it was him, it was him.

Q Did Mr. Kingham ask you this question and did you give this answer, page 42 --

MR. KINGHAM: Line, please.

MR. SPRIZZO: Line 10.

Q "Q Did he tell you to give any -- did he tell you how to give any false answers?

"A No. Everything he told us was, you know, everything we said were things that, you know, he would say that anything that passed the test."

Did you give that answer?

A This to pass the test.

Q Then the Government apparently was not satisfied with that answer and asked the next question --

MR. KINGHAM: I object to that.

MR. SPRIZZO: They asked the same question twice, your Honor.

MR. KINGHAM: I ask that the next questions and answers be read.

MR. SPRIZZO: I will read them all.

THE COURT: The jury will disregard the comment about the Government's dissatisfaction.

MR. SPRIZZO: I apologize.

"Q By false answers, I mean the answer that you would give the impression that would give the impression that would be false. Did he tell you any false answers to give?

"A Let me see. I have to go back. Yes,

he has, sure."

Next question:

"In that regard, did he advise you that a question would be asked as to whether or not you had gotten any money from the marriage?

"A Yes.

"Q Did he tell you how to answer that?

"A Yes.

"Q What did he tell you to say?

"A That my husband was paying 500 and he only paid 200 and he yas to give the lawyer the rest.

"Q Did he tell you in essence to say that all the money that was being paid was for legal fees?

"A It was just for --

"Q -- for the lawyer?

"A Right.

"Q And that you were not being paid anything to marry Tommy, is that correct?

"A Right."

MR. SPRIZZO: Does that satisfy, Mr. Kingham?

MR. KINGHAM: That is satisfactory.

Thank you.

Q In that grand jury testimony, even in response

to the second question put by the Government, is it not a fact that you only mentioned in the grand jury that you were told. or you might have been told by Mr. Chu to lie about the payments to the lawyer, payments to you; is that correct?

A Payments to me?

Q Payments to you or payments to the lawyer?

A Could you put it in a --

Q I will rephrase my question.

"What did he tell you to say?

"A That my husband was paying 500 and he only paid 200 and he has to give the lawyer the rest."

Right?

My question was, in response to the Government's second question, the only alleged false statement you said Mr. Chu was responsible for in that grand jury testimony had to do with payments to Mr. Chu; is that correct?

A That was one of them, yes.

Q That is the one you mentioned in the grand jury, right?

A Yes.

Q Then you were asked the next question:

"Q And that you were not being paid anything

to marry Tommy, is that correct?

"A Right."

A Yes.

Q So you gave an additional so-called lie that Mr. Chu was responsible for, which was the payments that you had received, is that correct?

A I wasn't supposed to tell the Immigration anything that I got.

(Continued on next page.)

Q But those were the only two that you mentioned, is that correct?

A That is what I was asked, that is what I mentioned.

Q You were asked whether or not Mr. Chu had told you to give any false answers and in response to a second question, the first time you answered no, in response to a second question you mentioned just payments to you and payments to Mr. Chu as being the false answers that you were asked to give, is that correct?

A I believe that's what I remember.

Q Then the government went further:

"Q Were you asked that question at immigration?

"A The only question I was asked at immigration was how much did my husband pay the lawyer. They didn't ask me did they pay me or anything."

A I don't remember that.

Q Is it your present testimony that immigration asked you how much money Mr. Chu had received?

A Yes, they had asked me that. They had asked me about the fee or something, I think, I'm not sure.

Q You are certain that immigration asked you about whether or not you had paid the lawyer, and that you lied about that to immigration?

A I'm not sure that they asked me, because I remember the lawyer telling me that same day, you know, and we were supposed to be prepared for it in case.

Q Would it refresh your recollection if I told you --

MR. KINGHAM: Objection, your Honor.

MR. SPRIZZO: I can refresh her recollection by my means permissible.

MR. KINGHAM: Not by a statement.

MR. SPRIZZO: I can refresh a witness' recollection by anything in existence.

MR. KINGHAM: I object to that, your Honor.

THE COURT: Let's hear the question.

Q Would it refresh your recollection if I told you that I have reviewed the interview notes which the government provided us of that interview --

THE COURT: That's enough.

MR. KINGHAM: I object.

Q And there is nothing in there --

THE COURT: Sustained.

MR. KINGHAM: I object to that.

THE COURT: Sustained. The jury will disregard the question.

MR. SPRIZZO: We will pursue it with the next witness, your Honor.

Q So those were the only things you mentioned, is that correct?

A Whatever they asked me is what I told them.

Q Nothing about him telling you to make up a story as to how you and Tommy met, right?

A Oh, sure, he had told me.

Q In the grand jury testimony that I just read?

A I don't think so. I thought you were talking about the lawyer had mentioned it to me.

Q Nothing about his saying, be sure you came down together, you didn't meet at my office?

A In the grand jury? I don't think they even asked me that. I'm not sure.

MR. SPRIZZO: The government will stipulate that I have read the testimony correctly and it is not there.

THE COURT: Not in the part you have read, that's obvious.

MR. SPRIZZO: I would like to have the witness review the entire testimony.

MR. KINGHAM: I have no objection, your

Honor, to that distinction.

THE COURT: All right.

Q It slipped your mind on those occasions, right?

A A lot of things slipped my mind.

Q That was after you met Mr. Kinghan, too?

A After I seen your friends, too.

Q After you saw what?

A After I saw the friends that interviewed me.

Q Your friends?

A Well, they work for you, no.

Q Did I understand your testimony to be that you testified in the grand jury after you saw my friends or your friends?

A That after what?

Q I didn't understand your last answer.

A That was before.

MR. SPRIZZO: Can I have the last answer read back?

A I said that a lot of things slipped my mind when I seen your friends.

Q I'm not asking you about what you told Mr. LaRocca. I'm asking about what you told the grand jury.

bsr5 Torres-cross

A I told them what they had asked me. Everything they asked me I answered them.

Q They asked you quite specifically, the government asked you not once but twice what false answers Mr. Chu told you to give, and you said that they consisted of statements about what you had received and what the lawyer had received.

A I could have kept on, but, you know --

Q You could have what?

A I could have kept on saying a lot of things he told me to say that I was supposed to say.

Q Was that in your mind when you appeared before the grand jury?

A I just answered no.

Q Did you lie to the grand jury?

A No, I didn't. I'm not lying now.

Q It slipped your mind at the time you were in front of the grand jury?

A Like I said, a lot of things slipped my mind. I'm beginning to remember everything now.

Q I could see that.

MR. KINGHAM: I object to that.

THE COURT: Sustained. The jury will disregard it.

Q Did you talk to Mr. Kingham before you appeared before the grand jury?

A Did I talk to him?

(Continued on next page)

A

lhrl Torres-cross

Q Yes.

A I believe I went to his office -- I believe I went to his office and they took me somewhere, to a courtroom, or something. We didn't get to talk much.

Q Did he go over your testimony that you were going to give to the grand jury?

A I don't think so. I don't think so.

Q Your testimony is that he didn't make any effort to prepare you?

A Prepare me?

Q Are you telling this jury that Mr. Kingham did help you prepare for -- are you telling this jury that Mr. Kingham didn't prepare you before you appeared before the grand jury? Did not go over your testimony with you?

A He talked to me, but not, you know, I can't remember if I went over -- I am telling you, I have answered so many things already. Prepared? I am prepared.

Q That's all right. You answered.

A Nobody has to prepare me.

Q You answered the question. We don't need any further speeches.

Q When you met Tommy Hu, was he a nice looking

fellow?

A Was he a nice looking fellow?

Q Yes.

A Well, he started to look nice now. He is dressing modern.

Q I didn't get your answer.

A He is starting to dress nice now that he's looking modern.

Q Was he a nice looking fellow, features?

A He just looked like somebody that just got off the boat.

Q Do you recall saying that he was a nice looking fellow?

A No.

Q You never said it?

A No. I can tell you who told me that, though.

Q I am not asking you that. I am asking if you said it.

A No, I didn't say it.

Q Did you ever hear anything about or know anything about a scheme by some of the girls to shake Gene Chu down for $15,000 under the threat that if the money was not paid all of the girls would go to the INS and report him?

A I heard something like that.

Q Did you discuss it with Aviles?

A Did I discuss it with Aviles?

Q With Aviles.

A The first day I heard that was that day --

Q Answer my question yes or no. Did you discuss it with Aviles.

A That day that I went was the day that I was talking to Aviles, and I heard everything that was going. Like something went berserk and I didn't want no part of nothing. I didn't discuss no blackmail that I heard of because I am not in no blackmail.

Q But you knew about it, right?

A I heard about it.

Q Your testimony is that you didn't participate in it in any way?

A That's right, I didn't.

Q But you knew about it?

A Because I haven't seen Aviles ever since then.

MR. SPRIZZO: I have no further questions.

CROSS-EXAMINATION

BY MR. CONCANNON:

Q Miss Torres, my name is Thomas Concannon.

I represent Jean Fong.

How long was it before the wedding that you met in her apartment?

A How long was it?

Q About. I know you don't know for certain.

A Yes, I am sure it was a few weeks before the wedding.

Q Who accompanied you to the apartment?

A I believe it was Alice Aviles.

Q About how much time did you spend there that day?

A How much time?

Q Yes, an hour? Two hours?

A I don't remember, really, how long. It was I believe about -- I believe about an hour, or so. I am not sure.

Q Did you have anything to eat or drink?

A Did I have anything to eat or drink? I don't remember.

Q Was the conversation more or less general, things like the weather and general conversation?

A We were just talking. We wasn't talking much about, you know, the marriage or anything like that, until I see the lawyer. We were just talking.

lhr5 Torres-cross

Q I am sorry?

A I just got to meet her so we were just talking, you know.

Q You did discuss weddings or marriages generally?

A Yes, we were talking about that, yes.

Q Did you indicate that no one had ever asked you to marry him?

A Did I indicate if anybody -- if anybody asked me to marry him?

Q Yes. Do you remember saying that it would be nice to be married, "I never had anybody ask me to marry them"?

A No. I said it would be nice to get the money. That's what I said.

Q You don't remember saying that it would be nice to get married, though, and no one had ever actually asked you?

A No.

Q You are quite sure of that?

A I was just thinking about the money. I wasn't there about the marriage.

Q I understand that --

MR. KINGHAM: I hesitate to interrupt, I

didn't hear the answer.

THE COURT: She said "I was just thinking about the money, I wasn't thinking about the marriage."

Q I understand that, I understand what may have been in your mind. What I am interested to know and what I ask you is what you said.

Did you not say that no one had ever asked you to marry him and that you would like to be married? I am not talking about -- I will withdraw that question.

THE COURT: She answered it, in any event.

MR. CONCANNON: Did she?

THE COURT: Yes. She said "No."

Am I correct?

THE WITNESS: I am trying to see if I am understanding him right.

THE COURT: Never mind. The record will show it.

MR. CONCANNON: I will rephrase the question.

Q Again, I am not asking you what you were thinking. You indicated you were thinking about the money.

A Right.

Q My question is, really, it goes to what the conversation was like at the time there, did you not

lhr7 Torres-cross

indicate that no one had ever asked you to marry him and that you would like to be married? Did you not say that to Jean Fong and to the company there at the time?

A Listen, I don't remember what I told Jean Fong. She was doing all the talking.

Q You don't remember actually what you said, though, at the time?

A No, not all of it. She was doing all the talking, not me.

Q You mean you never said anything while you were in the apartment?

A I was just asking her what is it about, you know, what do I have to do. She was the one that was telling me.

Q After your wedding ceremony, you went to the lawyer's office, Mr. Chu's office, did you not?

A (Nodding affirmatively).

Q At that time you indicated you received a certain amount of money?

A (Nodding affirmatively).

Q Jean Fong never asked you for any money, did she?

A She didn't say to give her $200. She never

1hr8 Torres-cross

told me that. She just said, you know, if I am going to be going around places with you, or whatever, I hope I get something. That is all. She didn't give no certain amount of money for us to give her.

Q She said to you "I hope I get something"?

A I believe she was going -- showing us every-place. She was expecting something.

Q Did she say to you "I hope I get something"?

A Yes.

Q You are quite certain of that?

A Yes, sure.

Q She never asked you for any money, did she?

A She never asked me for any money?

Q Yes.

A Did she ever ask me for any money? Like I said before, she didn't tell me "Give me $200," but she was expecting --

Q Did she ask you for any amount of money?

A All the girls --

Q Did she mention money?

A Sure, she was doing it for the money.

MR. CONCANNON: Your Honor, I ask that that be stricken. She has no right to tell what was in Jean Fong's mind.

THE WITNESS: We knew we had to give her money.

MR. KINGHAM: Your Honor, I object to counsel's colloquy. I ask that the entire colloquy be stricken.

MR. FLEMING: I join in that and ask for a mistrial because I am tired of these people saying what is in other people's minds.

THE WITNESS: That's what the other girls gave her. We were supposed to give her $200.

THE COURT: Wait for a question. The jury will disregard any statement by the witness based on an assumption of what was in Jean Fong's mind and will consider only the testimony as to what the witness said and what Jean Fong said.

THE WITNESS: You wanted me to say yes or no, and I am not going to say yes or no, because that's the way it went.

MR. KINGHAM: May I ask that the Court instruct the witness to answer the questions asked.

THE COURT: Yes. Just please answer the questions. The jury, of course, will disregard what the attorneys say. Whatever the attorneys say is not evidence in the case.

BY MR. CONCANNON:

Q You indicated, I think, that since 1972, or thereabouts, the State of New Jersey has been looking for you?

A Yes.

MR. KINGHAM: Objection,your Honor. That's not the testimony.

MR. CONCANNON: It was asked and answered and she said yes, your Honor.

THE COURT: Read the question.

MR. CONCANNON: Your Honor, I will withdraw it and rephrase it, if that will speed things up.

Q Since 1972 or thereabouts, the State of New Jersey has been looking for you, is that not correct?

A Yes.

Q Had you ever appeared in court over there in connection with those events prior to the time that the U. S. Attorney's office --

A Yes, yes.

Q In other words, you appeared there once back in 1972?

A Yes.

Q Then you disappeared?

A That's right.

lhr11 Torres-cross

Q And over that entire period of time they were looking for you?

A Yes.

MR. KINGHAM: Objection, your Honor. This is testimony about what someone else was doing, if knows what was physically being done --

MR. CONCANNON: She knew she didn't appear and that there was a warrant outstanding.

THE COURT: She was wanted, but whether there was active searching is a different matter. I will sustain the objection to the question as phrased.

THE WITNESS: I appeared --

MR. CONCANNON: There is no question --

THE WITNESS: I want to answer you something. I appeared there from the first warrant I got, I appeared there.

Q For some three years between -- excuse me, withdrawn.

When did the United States Attorney's office make the call or the letter or the introduction for you to New Jersey recently?

A When?

Q Yes, when.

A When was it? I think it was a week and a half

to two weeks ago, three.

Q So what you are telling the Court and this jury is that after an absence of some three to four years they were able to assure for you at the outset that you would be released after your appearance over there, isn't that the case?

A That I would be released?

Q Are you in custody now?

A I am under my own -- yes, I am not in custody now.

Q You are on your own recognizance?

A Right.

Q After some three or four-year period of your absence with a warrant outstanding, they were able to assure you if you went over there you would be released again?

A They needed me here.

Q Pardon me?

A Because they needed me here. That's the only reason why.

Q Because they needed you here?

A Yes.

Q Certainly. Thank you.

MR. KINGHAM: I object to that.

A That is the only reason why. It wasn't something they promised me, or anything like that.

MR. CONCANNON: No further questions, your Honor.

THE COURT: Mr. Barry?

MR. BARRY: I have no questions, your Honor.

THE COURT: Any redirect?

MR. KINGHAM: Just a few, your Honor, if I may.

REDIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Torres, prior to the time that you were first interviewed by Mr. Hittelman in July of 1975, do you recall that interview at his office that Mr. Sprizzo asked you about? Prior to that time were you advised that the statements you made could be used against you at some later time?

A Yes.

Q And you gave us statements anyway?

A I gave you statements

Q When you were before the grand jury in this Court House and I asked you questions, do you recall that in the grand jury?

A Yes.

Q Did you answer at that time only the questions that were asked of you?

A I believe so.

THE COURT: Speak up.

A (Continuing) I believe so.

MR. KINGHAM: I have no further questions, your Honor.

THE COURT: Any recross?

MR. SPRIZZO: Just one question on the Hittelman

interview, your Honor.

RECROSS EXAMINATION

BY MR. SPRIZZO:

Q When you spoke with Mr. Hittelman after you were told that your answers could be used against you, and all the rest of that, did you tell Agent Hittelman that Mr. Chu had told you to lie about payment that you or the lawyer had received?

A That he had told me before that --

Q Did you tell Hittelman anything at all about Mr. Chu saying to you that you were supposed to lie to Immigration & Naturalization Service about payments that either you had received or that Mr. Chu had received?

MR. KINGHAM: Your Honor, I object to the question. It is not proper recross and was covered on cross-examination.

MR. SPRIZZO: You asked about the interview.

MR. KINGHAM: I asked about a specific portion of the interview.

THE COURT: I will permit it if rephrased. It is obscurely --

Q I will make it two questions.

When you were interviewed by Agent Hittelman under oath in July, 1975, did you tell Agent Hittelman

anything at all about Gene Chu saying to you that you should lie about payments to Mr. Chu?

A I really don't remember if I did.

Q Did you tell Agent Hittelman anything at all about Gene Chu telling you to lie about payments that you yourself had received?

A Did I tell him anything? I don't know if I told Mr. Hittelman. I think I told Mr. Kingham.

MR. SPRIZZO: Will the Government stipulate that it is not there?

MR. KINGHAM: I will agree that it is not there.

MR. SPRIZZO: That is all I have.

THE COURT: Thank you very much. You are excused.

(Witness excused.)

MR. KINGHAM: The Government calls Mary Griffith.

- -

M A R Y L O U I S E G R I F F I T H, called as a witness on behalf of the Government, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Please keep your voice up, Mrs. Griffith, so

you can be heard by everybody in the room. Sometimes it is a little bit difficult here.

Is it Miss or Mrs. Griffith?

A Mrs.

Q How are you employed at the present time?

A I am employed by the Immigration & Naturalization Service as an Immigration examiner.

MR. FLEMING: May we have the same objection to this testimony as we had to Mr. Cutler's testimony yesterday?

THE COURT: Yes, you may.

MR. CONCANNON: For the record, I make the same objection.

MR. BARRY: And the same objection.

THE COURT: I instruct the jury again that if the witness, as anticipated, reports any conversation she had with any one of the persons who allegedly participated in any of the deceptive schemes, that conversation is not chargeable against any of the three defendants, unless and until a conspiracy is established which involves that defendant and the person who made the statement, and it is further established that the statement was made in pursuance of the objectives of that conspiracy.

All right, sir.

BY MR. KINGHAM:

Q Mrs. Griffith, how long have you been with the Immigration Service?

A I have been working for Immigration for 11 years.

Q During the period from 1973 to 1975, were you an interviewer in the I-130 program?

A Yes, I was.

Q How many interviews would you say you conducted during the period you were with the program?

A I really couldn't say, but I did eight hours work every day.

Q Hundreds of interviews?

A Hundreds, yes.

Q Did you generally use the same procedure ever time you interviewed somebody?

A Yes, I did.

Q What procedure would you use?

A I would go out, call in the people that I was getting ready to interview, bring them into my desk, sit them down, introduce myself, tell them the purpose of the interview was to establish if they were living together in a valid marriage as man and wife, give them their rights.

If an attorney was present, I would tell him

the same thing, the purpose of the interview, then I would tell them what I was going to do.

I would tell them that I was going to question them separately to see if they were living together as man and wife, and I would send one party out and I would interview the other. Then I would send the other party out, bring the other party in, interview that party. I would compare my questions and answers to see if I got the same answers from both to see if they were living together as man and wife.

Q Would you keep a record of the answers that you had received?

A Yes. I would keep a separate work record on the petitioner and the beneficiary.

Q The petitioner would be the citizen; is that correct?

A Yes.

Q And the beneficiary would be the alien spouse; is that correct?

A That is correct.

Q Let me show you, Mrs. Griffith, what has been marked Government's Exhibit 15 for identification.

Would you take that, please, and tell me if you recognize that document?

A Yes, I do.

Q What is that?

A These are my notes from an interview that I took January 30, 1974.

Q From whom did you take those notes? Who was interviewed?

A This was Frances Torres and her husband, Tommy Hu.

Q Other than this piece of paper, do you have any independent recollection of what was said by those parties on that date?

A No, I don't, just from my notes.

Q Do your notes contain in substance the answers that you received from either or both of those parties?

A From both, the petitioner and the beneficiary.

Q What would your procedure be in preparing notes such as these? How would you prepare them?

A I would start taking notes from the time that I commenced with the interview. I would ask the question and I would put down the answers.

Q Would you write the answers that both parties gave or only one?

A Just as they were given, both parties.

Q Would you thereafter make a comparison?

A Yes, I would.

Q Would the comparison also be reflected in your notes?

A Yes.

MR. KINGHAM: Your Honor, Government's Exhibit 15 for identification is offered as Government Exhibit 15.

MR. SPRIZZO: No objection other than the same ones we made yesterday.

MR. CONCANNON: The same, your Honor.

MR. BARRY: Yes, your Honor.

(Government's Exhibit 15 was received in evidence.)

xx Q Mrs. Griffith, with respect to Government's Exhibit 15, can you explain the order of preparation of the items that appear here, page by page?

A Yes, I will. The first question that I asked was how they met, and I got my answer just as the American citizen gave it to me and I listed it.

Q So page 1 would contain an answer received from Frances Torres Hu; is that correct?

A Yes.

Q Do you record answers from Frances Torres Hu on the first page of your notes?

A Yes, I do.

Q Those are all answers from her?

A Yes.

Q On the second page, whose answers would those be?

A On the left is from her and on the right is from the alien, the husband.

Q On the right would you right areas that were discrepancies?

A Yes.

Q Page 3, please. From whom were those answers obtained?

A This was from Frances.

Q On the left?

A Yes.

Q And on the right?

A From Tommy.

Q I believe there is a fourth page.

A Yes.

Q What is the fourth page?

A This is a picture of a room in their house showing the entrance to the room and different articles in the room.

Q Was that something that you asked one of them to draw?

A Yes.

Q There appear to be three signatures on there. Whose are they, if you know?

A These are Frances' signature, the American citizen.

Q Did you ask her to put them there?

A Yes, I did.

Q Is there a fifth page?

A Yes.

Q What does that reflect? Whose answers were those?

A Both.

Q On the left, whose answers?

A Frances'.

Q On the right?

A Tommy's.

Q Mrs. Griffith, the first answer, "Met," what type of a question does the word "met" mean to you in your notes?

A This was the question of how did they meet. I asked her how she met her busband

Q The right side of that page is blank. Does that mean you got the same answer from the husband?

A Yes, it does.

MR. KINGHAM: Your Honor, may I read that portion of Government's Exhibit 15?

"Met. I used to stay with a friend,Saleno, and she dated his uncle, and she asked if I wanted to go out with her and her date because he had someone he wanted me to meet, his nephew. We went out to a restaurant, 456, in Chinatown, May, 1973. We took a cab, Saleno and I, and we met them at the restaurant."

Q Mrs. Griffith, am I correct that if there is no entry on the right-hand side of the page, that means that the alien's answer was substantially the same as his spouse's answer; is that correct?

A Yes, it does.

Q Would you review and tell us which places there were discrepancies, then?

A I asked how they paid the rent, and Frances stated that her husband gave a check to the landlord. Tommy stated that he paid the check -- paid the rent by personal check which he mailed.

Q Were there any other discrepancies?

A Yes. I asked Frances where did her husband work. She said he worked in a restaurant on 73rd Street, six days a week, and he was off on Thursday, and his pay

was $150 a week, and his pay day was Wednesday.

I asked Tommy the same question, and he said he worked in a restaurant on 70th Street, and his pay day was once a month, no special day.

I asked Frances if she had a clock in her bedroom. She said yes, it was white and brown and it was on the night table.

I asked Tommy the same question, and he said the clock was yellow or gold.

I asked Frances what was the nearest bus stop from her house where she lived with Tommy. She said it was two and a half blocks away, and I asked Tommy the same question, and he said it was one block away.

Q Are those the only discrepancies in the interview as you recorded them?

A Yes, it was.

Q What address did Francis and Tommy give you as the address at which they were residing, do you know?

A Yes.

Q What address was that?

A They were residing at 728 East 187th Street in New York, Apartment 2, since July 16, 1973.

MR. KINGHAM: Thank you, Mrs. Griffith. I have no further questions.

CROSS EXAMINATION

BY MR. FLEMING:

Q Mrs. Griffith, what is the number of the exhibit, I have forgotten it?

A 15.

Q Does that comprise questions that you asked -- the answers to the questions that you asked?

A Yes.

Q One of the persons questioned was Francesca Torres Hu?

A Yes.

Q Am I correct that at no place in your examination of Mrs. Hu -- am I correct that no place did you ask her how much money her attorney, Mr. Chu, was being paid?

A No I never asked that question.

Q And if she had so testified under oath, she would be mistaken?

A Yes. It would not be the truth.

Q May I show you what is Government's Exhibit 9-B. I believe that is an I-130 on the marriage of Francesca Torres to Tommy Hu, is that correct?

A Yes, it is.

Q Was it the purpose of the I-130 program to check out the truth of the representations made on the I-30?

A Yes.

Q Were all the people who filed I-130's, after the interview program began, were all the people who filed I-30's asked to come in and submit to interview?

A Yes.

Q Everyone?

A Not everyone, because this is a special type of I-130. This is a spouse case.

Q But everyone who filed that type of I-130 was asked to come in for an interview?

A Yes.

Q And when they came in for an interview they were questioned as you described?

A Yes.

Q In order to determine what you said you were trying to determine?

A Whether they were living together as man and wife.

MR. FLEMING: I have nothing further.

MR. CONCANNON: No questions.

MR. BARRY: I have no questions.

MR. KINGHAM: Nothing further.

THE COURT: Thank you very much, Mrs. Griffith.

(Witness excused.)

MR. KINGHAM: May we approach the side bar?

THE COURT: Yes.

(Side bar.)

MR. KINGHAM: Your Honor, I don't know what the Court's schedule is today. I have the next witness, Joseph Jout, who is potentially the longest witness in the case, both on direct and on cross-examination.

I don't know whether the Court would want to break now for lunch before we begin. We would easily fill the afternoon with his direct and cross.

THE COURT: Normally, I don't break until about a quarter of one.

MR. KINGMAN: I knew that.

THE COURT: You ought to go ahead and start with him now.

(Open court.)

MR. KINGHAM: The Government calls Jout Jong or Joseph Jout.

May I ask Mrs. Moy to step up, the interpreter?

THE COURT: Yes.

bss

J A N J O N G J O U T , called as a witness by the Government, being first duly sworn, testified as follows:

MR. FLEMING: Your Honor, can we first establish that this man needs an interpreter.

MR. KINGHAM: I intend to, if I may, your Honor, put the questions at the beginning in English.

THE COURT: You may.

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Mr. Jout, would you answer me in English for a while?

A Yes, sir.

Q Do you speak and understand the English language?

A Yes, I speak very simple and very slow.

Q Do you understand everything that is said to you in English?

A Not everything.

Q Are you more comfortable speaking in the Chinese language?

A Yes.

MR. KINGHAM: Your Honor please, I would request that under the circumstances, and in light of Mr. Jout's rather heavy accent, that he be permitted to testify through

Mrs. Moy, the interpreter.

MR. FLEMING: With the exception of Mr. Jout's heavy accept, I have no objection.

MR. CONCANNON: I have no objection.

MR. BARRY: I have no objection.

THE COURT: He does have some accept. Whether it is heavy or not --

MR. FLEMING: Heavy or light does not matter.

THE COURT: Whether it is heavy or light is a matter of personal evaluation.

You may interrogate him through the interpreter.

MR. KINGHAM: Thank you, your Honor

Q Mrs. Moy, if you would interpret, please.

Where were you born, sir?

A In Pekin, China.

Q Of what country are you a citizen?

A The British.

Q Do you come from Hong Kong?

A Yes.

Q When did you first come to the United States?

A July 27, 1973.

Q When you arrived in this country where did you come to?

A New York.

Q Did you come here on a passport with a visa?

A Yes.

Q Did you come as a visitor?

A Yes.

Q And whom did you come to visit?

A To visit my elder sister.

Q What is your elder sister's name?

A Ya Lee Foo.

Q Where does she live?

A In Long Island.

Q Do you recall, sir, on your visa how long you were permitted to stay as a visitor in the United States?

A One month.

Q Do you know a man named Yu Kuo Ping?

A Yes.

Q Do you know him by any other name?

A Jimmy.

Q Is that Jimmy Yu?

A Yes.

Q Do you see him in the courtroom?

A Yes.

Q Would you point him out.

MR. KINGHAM: Indicating the defendant Yu.

THE COURT: The record may so so reflect.

Q How long have you known this man?

A I know him since I was seven.

Q After you arrived in this country in July of 1973 as a visitor did you have occasion to see Jimmy Yu?

A The second day or the third day I went to visit him, to look for him.

Q Do you know where he lived?

A In Queens.

Q At the time you saw him did you have a conversation with him about obtaining residence here?

A The first time, no.

Q Did you see him again after that first day?

A Yes, we met frequently.

Q On any of those frequent meetings did you have such a conversation?

A Because I was only allowed, permitted to stay for one month, but I would like to stay on longer.

Q Did you discuss that with Jimmy Yu?

A I asked him whether there is ways to apply in order to stay on here.

Q What did he say?

A He said he wasn't clear with this Immigration, but he will consult with the lawyer.

Q Did there come a time when you met a man named

Gene Loy Chu?

A Yes.

Q Do you see him in the courtroom?

A Yes.

Q Would you point him out, sir. Would you point him out again. Counting from the left, where is he at that table?

MR. FLEMING: There is no issue on this, your Honor.

THE COURT: The record may reflect identification of the defendant Chu.

MR. KINGHAM: Thank you, your Honor.

Q Do you recall the date that you met Mr. Chu?

A I cannot recall the exact date.

Q I show you what has been marked Government's Exhibit 3538 for identification, calling your attention to a page near the back. Would you look at that and tell me if that refreshes your recollection?

A Yes.

Q What date was it that you met Mr. Chu?

A August the 6th.

Q Of what year?

A '73.

Q By the way, what is this book?

MR. FLEMING: Objection. It is not relevant.

THE COURT: Read the question.

MR. KINGHAM: What was that book. The document that I showed him to refresh his recollection.

THE COURT: What is his connection with the book? Has it been established that he is in a position to be able to identify the book?

MR. KINGHAM: It was shown to him to refresh his recollection, your Honor. I can lay that foundation, if you wish.

THE COURT: I think --

MR. KINGHAM: I believe he has.

THE COURT: That is in the record up to now?

MR.KINGHAM: I don't believe it is in the record.

THE COURT: Establish a foundation.

Q Do you know what that book is?

A Yes. My diary.

Q Where was it that you met Gene Loy Chu?

A In his office.

Q Do you know where that was?

A It is on Division Street.

Q Is that in Chinatown?

A Yes.

Q Who was there with you when you met Gene Loy Chu?

A Jimmy and my elder sister.

Q Did you have a conversation with Gene Loy Chu at that time?

A I asked the lawyer whether there is a way for me to remain here.

Q What did he say?

A And my friend at that time asked him whether we could use investment or as a student to stay here.

MR. FLEMING: I object to that.

THE COURT: Read the question and answer.

(Read.)

THE COURT: I assume that is a supplemental answer to the previous question. It may stand.

Q Who said those words that were just read?

A That's Jimmy, Jimmy Yu.

Q After those words were said, did the lawyer say anything?

A And at that time the lawyer says that at present to use as a student or as an investment, it does not work.

Q Did he say anything else?

A He said the only way is to marry a United States citizen.

Q What did you say, if anything?

A And I said I had no way of knowing people here.

Q Was anything else said?

A And he said that he knew a girl who is in a hurry to get money, and you can get married with her.

Q Who said that, sir?

A The lawyer, Chu.

Q What did you say?

A And I asked him how much money was needed.

Q Did he reply?

A He say the girl would require $3500.

Q Did he say anything else?

A And for the lawyer's fees will be $1500.

Q Did you say anything to that?

A And then I told him that I didn't have so much money, can he reduce it.

Q What did he say?

A He said that the girl's money can't be reduced but his fee could reduce, he would only accept $1000.

Q What did you say?

A And he also say that in the beginning I have to pay the girl $1500 and that 2000 will be paid later.

Q Did you say anything else?

A I said I'll go back to consider about it.

Q Did your sister say anything at that meeting?

A My sister asked him, if he get married now, in the future, what if the girl refuse to get a divorce.

Q What did he say to that?

A And the lawyer said, that didn't matter because before the marriage we can ask the girl to sign the divorce paper.

Q Do you recall if anything else was said at that meeting?

A He told me that the girl didn't like men and she's in love with her own sex.

Q What did you say?

A I cannot recall.

Q How long, Mr. Jout, did that meeting last?

A I cannot recall exactly.

Q What did you do after it was over; where did you go?

A That night my elder sister and I remained in Jimmy's house.

Q The next day, that is August 7, 1973, what did you do?

A Then my sister, my elder sister and I, we

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returned to the lawyer's office.

Q Before returning to the lawyer's office did you go anywhere with your sister?

A From Jimmy's place I went to his place.

Q What happened when you went to the lawyer's office that time?

A He asked us to bring the money to him in the afternoon.

Q What did you do then?

A And I and my elder sister returned to Long Island to borrow the money.

Q Did you obtain some money?

A Yes.

Q How much did you get?

A I took out $2000.

Q Where did you get it from?

A A portion I borrowed from my little sister and another portion I borrowed from my elder sister and the rest I had my own money.

Q Did you return to the lawyer's office later that day?

A Yes.

Q About what time, do you recall?

A I cannot recall what time. Sometime in the

afternoon.

Q Was there anyone else there?

A There was a girl and there was a black woman.

Q Do you know the black woman's name?

A At that time I didn't know. It was later that I know.

Q Do you see that woman in the courtroom?

A Yes.

Q Would you point her out?

A Yes. She is sitting at that table.

MR. KINGHAM: Indicating the defendant Jean Farmer.

THE COURT: The record may so reflect.

Q At the time that you met with this woman, who was present, could you name the people who were there?

A Who was also there?

Q In addition to you and the black woman.

A There was the lawyer, my elder sister -- that's it.

Q Was there a conversation?

A Yes. The lawyer introduced us to each other.

Q Was there conversation in Chinese, in English?

A A portion in English and a portion in Chinese.

Q Do you recall what was said at that conversation?

A And I told him that I didn't have a definite place to stay.

Q Who did you tell that to?

A I told the lawyer.

Q What did he say?

A He said the girl has her own apartment.

Q Was there any other conversation?

A And also he told me she was staying with another girl.

Q What did you say?

A I cannot recall what I have said.

Q Did the lawyer say anything else at that time?

A He said that if you are satisfied then you should go immediately for the blood test.

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lhrl Jout direct

Q Did you make any payments at that time?

A As soon as I arrived, I have already given the money.

Q Who did you give the money to?

A To the lawyer.

Q How much?

A $2000.

Q Cash or check?

A Cash.

Q Did you get a receipt?

A No.

Q After that meeting in the lawyer's office, where did you go, Mr. Jout?

A Then he made a telephone call to the doctor, and then we went for the blood test.

Q Who made the telephone call?

A The lawyer.

Q Do you recall where you went for the blood test?

A The doctor, last name Kwan, located on Mott Street.

Q Who went with you?

A My other sister, Jeannie Fong, and Carmen.

Q Who was Carmen?

A Carmen is that girl.

Q Which girl?

A That girl I was going to get married to.

Q Where did you meet her?

A In the lawyer's office.

Q After the blood test was taken, what did you do?

A Then I returned to Long Island with my elder sister.

MR. KINGHAM: Your Honor, in accordance with the Court's schedule, this would be an appropriate time to break.

THE COURT: We will take our noon break now and come back at 2 o'clock.

(Luncheon recess)

AFTERNOON SESSION
2:00 p.m.

(In open court; jury present)

J O S E P H J O U T resumed.

DIRECT EXAMINATION CONTINUED

BY MR. KINGHAM:

Q Mr. Jout, after the day of your blood test, did there come a time when you went to City Hall?

A Yes, I went on the 14th.

Q Is that August 14, 1973?

A Yes.

Q By City Hall, I mean this big building next to the courthouse, the Municipal Building.

A Yes.

Q Who went with you on that day?

A That girl and Jean Fond and Jimmy.

Q Who was "that girl"?

A Carmen.

Q What did you do there?

A We fill in the forms for application.

Q I show you what has been marked Government's Exhibit 29 for identification. I ask you, sir, if you recognize that document?

A Yes, I recognize it.

Q What is it?

A This is the application form for marriage.

Q Did you sign that?

A Yes, I signed this.

Q Do you know who filled it out?

A My friend Jimmy Yu filled it out for me.

Q When was that filled out?

A August 14.

Q Was Jean Fong present at that time?

A Yes, she was there.

MR. KINGHAM: Your Honor, Government's Exhibit 29 for identification is offered as Government's Exhibit 29.

MR. FLEMING: Your Honor, we have no objection--Mr. Chu has no objection, except for the connection.

(Government's Exhibit 29 was received in evidence)

xx

MR. KINGHAM: May I read from Government's Exhibit 29, your Honor?

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 29 in evidence to the jury)

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BY MR. KINGHAM:

Q Mr. Jout, do you know who lived at 32-49 86th Street in Jackson Heights?

A Jimmy Yu.

Q Did you stay there with him from time to time?

A Yes.

Q On August 17, 1973 were you married to Carmen Miranda?

A Yes.

Q Where did that take place?

A City Hall.

Q In the same building where you filled out the application?

A I think so.

Q Who was present?

A Jean Fong and Jimmy Yu.

Q Before going to City Hall, where did you meet those people?

A At the front door of the lawyer's office.

Q How did you get to City Hall?

A My friend drove me there, Jimmy Yu drove me there.

Q Who were the witnesses to your wedding at

City Hall?

A Jimmy Yu.

Q Was Jean Fong present?

A Yes.

MR. KINGHAM: Your Honor, the government offers Government's Exhibit 30 for identification in evidence as Government's Exhibit 30, original document received.

MR. FLEMING: No objection.

(Government's Exhibit 30 was received in evidence)

xx

MR. KINGHAM: May I read from Government's 30, your Honor?

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 30 in evidence to the jury)

xx

BY MR. KINGHAM:

Q After the wedding ceremony took place, Mr. Jout, where did you go?

A We went to a public government building to take some pictures.

Q Who went there?

A Jean Fong, Carmen and myself.

Q Where did you go after that?

A After the pictures had been taken, they took the pictures to the lawyer's office and I went back to work.

Q Did you go to the lawyer's office?

A No, I did not.

Q Calling your attention to August 29, 1973, did you see Jimmy Yu on that day?

A Yes.

MR. KINGHAM: May we take a brief recess to see if the noise will stop?

THE COURT: Wait just a moment. It may not be necessary.

Q Where did you see Jimmy Yu on August 29, 1973?

A In his house.

Q Was that in Jackson Heights?

A Yes.

Q What were you doing there?

A I cannot recall exactly, but probably to play Mah-Jongg.

Q What happened on that occasion?

A The lawyer called on the phone.

Q Did you speak with him?

A Jimmy spoke with him.

Q After Jimmy spoke with him, did you have a conversation with Jimmy?

A Yes.

Q What did Jimmy say?

A Jimmy Yu said that the lawyer said that Carmen has no place to stay and that I have to pay $100 to Carmen and also to rent a room.

Q What did you say?

A I told him that now I do not have that much money, and so I borrowed from Jimmy Yu.

Q Was there any other discussion with Jimmy Hu at that time?

A I cannot recall for sure.

Q Did you have any discussion about the lawyer's fee?

A I still owed -- at that time I still owed that lawyer $500.

Q Did you discuss that with Jimmy Yu at that time?

A The lawyer was after me to get the money, and so I did not have the money and borrowed the money from Jimmy Yu.

Q Did you obtain the money from Jimmy Yu?

A Yes.

Q What did you do with it?

A I cannot recall exactly whether it was the same day or the next day that I took the money to the lawyer.

Q Did you give him cash or a check?

A Cash.

Q Did you get a receipt?

A No.

Q Between September of 1973 and February, 1974, where did you live?

A North Carolina.

Q What city?

A Raleigh.

Q What did you do there?

A I help a friend to attend to his restaurant.

Q During that period from September, 1973 to February, 1974, did you see your wife Carmen?

A No.

Q Did you see or speak with Jimmy Yu during that period?

A Yes.

Q Do you recall any specific conversations with him?

A Because the lawyer say that every month I have to pay the rent and also the $100 to Carmen and that the lawyer said not to send her checks, so I have to send the rent money and the $100 check to Jimmy Yu and have Jimmy Yu cash the check and give Carmen the cash.

Q And did you do that during the period from September, 1973 to February, 1974?

A Yes.

Q When was it that you next saw Gene Loy Chu, the lawyer?

A In February when I returned from North Carolina.

Q Was that 1974?

A Yes.

Q Where did you see him?

A In his office.

Q And who was present?

A The first time I saw him was only me and him.

Q Did you have a conversation with Mr. Chu at

that time?

A He told me that the Immigration has sent a letter to notify me for an interview on the 25th.

Q What did you say?

A I cannot recall exactly what I said.

(Continued on next page.)

Q Do you recall in substance what you said?

A What I said I cannot remember, but what he said I can remember.

Q Did he say anything else in addition to what you have already told us?

A He told me that during this period of time I must move back from North Carolina and not to stay there.

Q Where did you go after leaving his office?

A Then I went to that Carmen's apartment.

Q Where was that?

A It's 958 East 108th Street in Brooklyn.

Q Had you been there before?

A It's 959.

Q Had you been to that apartment before?

A Before I did not go there.

Q Let me show you what has been marked Government's Exhibit 26 for identification, Mr. Jout.

Look at that, tell me if you recognize that.

A Yes, I recognize it.

Q Have you seen that before?

A Yes.

Q About when did you see that?

A This is what the Immigration sent me.

Q Do you remember when it was that you saw that?

In the beginning of March.

Q In 1974?

A Yes.

MR. KINGHAM: Your Honor, Government's Exhibit 26 for identification offered as Government's 26 subject to the stipulation.

MR. FLEMING: No objection, Your Honor.

(Government's Exhibit 26 was received in evidence.)

xx MR. KINGHAM: Your Honor, if I may, from the stipulation, which was Government's Exhibit 51, it was stipulated that this Government's Exhibit 26 is a file copy of a letter retained in the regular course of business of the Immigration Service and that the phrase cc before the name Gene Loy Chu and his address reflects that a copy of the letter was sent to him.

May I read from Government's 26?

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 26 in evidence.)

BY MR. KINGHAM:

Q After you received a copy of that notice, Mr. Jout, what did you do?

A Then the lawyer ask me to go up there with Carmen

o see him.

Q And did you go?

A Yes.

Q Did you go before March 15, 1974?

A Yes.

Q Was there a conversation?

A Yes.

Q What was said?

MR. FLEMING: Can we fix a date?

A He say that that would be the day for question-ing and that I was not to mention that I met the girl in his office.

Q Do you recall specifically what date it was that this conversation took place?

A I cannot recall.

Q Was it between the time you received that notice and the 15th of March, when the interview was scheduled?

A Yes.

Q Was anything else said at that meeting?

A And he also told me that it is not reasonable for me to go to North Carolina and that I have to come back once every two weeks.

Q What did you say?

A I did not say much.

Q After that meeting at the lawyer's office where did you live?

A I listened to the lawyer and so I stayed in the girl's apartment.

Q Who else lived there with you?

A Carmen's friend Frances.

Q Did Carmen live there also?

A Yes.

Q Was that Frances Torres?

A I don't know who is Frances Torres. I only know her as Frances.

Q Who slept there in that apartment? Where did you sleep?

A The two, they slept in the room, and I slept in the living room.

Q Did you ever have sexual relations with Carmen?

A No.

Q On March 15, 1974 did you go to the Immigration office?

A Yes.

Q Before you went there did you have occasion to see Gene Loy Chu?

A Yes, we were in his office at 7.30.

Q Who was there?

A He, the lawyer, Carmen and myself.

Q Was there any discussion?

A Yes.

Q What was said?

A Then he spoke with us, asking the questions that the Immigration might ask us.

Q Do you recall what he said?

A He said to remember the street locations and the house location, how it has been decorated.

Q Was there any discussion about money?

A And he also say that if the Immigration ask how much was the lawyer's fee not to say $1000, just say that he received $600.

(Continued on next page.)

Q Was there any discussion about how you met your wife?

A He said not to mention that I have met this girl in his office, that I met this girl in Jimmy Yu's restaurant.

Q Was that true?

A No.

Q Did you go to the immigration service that day?

A Yes.

Q Were you interviewed?

A That day, no.

Q Why was that?

A Because Carmen did not bring her ID, her identification.

Q Did you then leave the immigration office?

A Yes, we left.

Q Where did you go?

A I cannot recall exactly.

Q At that time, in March of 1974, where were you living?

A I have lived in many places. I have stayed with my sister in Long Island, I have stayed at Jimmy Yu's place, at that time I also have been to North

Carolina.

Q Did you stay with Carmen from time to time in Brooklyn?

A You cannot say that we lived together. We only shared the apartment.

Q Mr. Jout, did there come a time when you went back to the immigration service office?

A Yes, April 2nd.

Q 1974?

A Yes.

Q Prior to going to the office that day where did you go?

A Also went to the lawyer's office.

Q Who went there?

A The lawyer, Carmen and myself.

Q Was there a conversation?

A The same old questions.

Q Do you recall what was said?

A Asking our mutual age and the location of the streets and how the house was decorated.

Q Was there any further conversation about money?

A He said definitely must not say, you know, that money had been given for this marriage.

jhr3 Jout-direct

Q Did you then go to the immigration office?

A Yes.

Q And were you interviewed there?

A Yes.

Q Was that by a man or a woman?

A The first time was a woman.

Q Who was with you when you were interviewed?

A The lawyer.

Q Where was Carmen?

A We were questioned separately.

Q Did she wait outside while you were questioned?

A Yes.

Q Was there an interpreter, if you recall?

A No.

Q Were you asked questions and did you give certain answers?

A Yes.

Q Did you tell the truth, sir?

A A portion, no.

Q What did you say that was not true?

A Well, because I did not marry this girl out of love.

Q Did you say that you married her because you loved her?

A Yes.

Q Do you recall what else you said that was not true?

A I cannot remember.

Q Were there other things?

A I cannot recall.

Q How long was your interview?

A About three, four hours.

Q Who was interviewed first?

A Carmen.

Q After your interview what happened?

A That woman official did not believe us and sent two male officials to come for questioning.

Q Were you questioned by some other people then?

A Yes, there were another two.

Q Before that questioning began did you have a conversation with the lawyer, Gene Loy Chu?

A Yes.

Q What was said?

A He said that I must insist saying that this marriage is real and that I have not paid the money to get married, otherwise the immigration would arrest me and put me in jail.

Q After that were you interviewed?

A Yes.

Q Where was the lawyer while you were interviewed?

A He was together with me.

Q Was he there when you gave a statement?

A When I gave a statement, at thattime he had already left.

Q Did he say anything to you before he left?

A He said that we shouldn't have any problem now and that he is going to leave first.

Q Do you recall what it was that you said to the immigration official who interviewed you in your second interview?

A The same questions as before.

Q Did you give the same answers?

A Yes.

Q Did you tell the truth?

A Part of it, no.

Q After that interview was finished what did you do, Mr. Jout?

A I cannot remember, but after the interview I went to work.

Q Did you remain in New York at that time, in April 1974?

A No, I went with my eldest sister and my eldest sister's children to the south to tour.

Q How long was that trip that you took to the south?

A I cannot remember how many days. Approximately a week and a half.

Q Do you recall when it was that you returned to New York?

A I cannot recall.

Q Let me show you Government's Exhibit 3538 for identification. I ask you to look at this.

A Yes, I remember.

Q Does that refresh your recollection as to when it was that you returned to New York?

A Now that you took the book away, I forgot.

Q Was it April 12, 1974?

A Yes.

Q When you returned where did you live, Mr. Jout?

A I have stayed in many places. I cannot remember.

Q Did you live with Carmen?

A No.

Q Between April 1974 and March 1975 did you

have any contact with Gene Loy Chu?

A I cannot recall exactly, but I think no.

(Continued on next page)

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Q During that period where did you work?

A At one time I was working in a restaurant and other times I was working in a sewing factory.

Q Did you ever work with Jimmy Yu during that time?

A Yes.

Q Where did you work with him?

A We were attending to a food truck.

Q Did you work together in the food truck business?

A Yes, we both worked together.

Q Did that business continue or did it fail?

A It failed.

Q During that period of time did you socialize with Jimmy Yu?

A I don't understand this question.

Q Did you see him from time to time?

A Yes. We met frequently.

Q Where would you see him?

A Where did I see him?

Q Yes. Where did you see him?

A Sometimes in his house.

Q Let me show you what has been marked Government's Exhibit 28 for identification. Do you

recognize that document?

A I remember.

Q Have you seen that before?

A Yes.

Q Do you remember when it was that you saw it?

A At the end of March.

Q Is that 1975?

A Yes.

MR. KINGHAM: Your Honor, Government's Exhibit 28 for identification, offered as Government's Exhibit 28, is the subject of a stipulation.

MR. FLEMING: No objection.

(Government's Exhibit 28 was received in evidence)

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MR. KINGHAM: May I read from 28, your Honor?

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 28 in evidence to the jury)

BY MR. KINGHAM:

Q Mr. Jout, after you saw that notice, what did you do?

A I went to see him, to see the lawyer.

Q How was it that you came to see that notice,

do you recall?

A He notified me.

Q Who notified you?

A I do not know who notified the lawyer, but the lawyer contacted Jimmy and Jimmy in turn told me.

Q When you went to his office, whom did you go with?

A The first time I went myself.

Q Was there a conversation?

A He just told me that he had received the letter and that in about two days to arrange with Carmen to go up to see him.

Q Did you go with Carmen to see him?

A Yes.

Q Did you have a conversation with him on that occasion?

A Could you repeat the question?

Q When you went to see him with Carmen, did you have a conversation with him?

A Yes.

MR. FLEMING: Can we fix a date, your Honor?

MR. KINGHAM: I will, your Honor.

Q Was this prior to the 7th of April, 1975?

A Yes.

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Q Was it after you received notification of the notice dated March 25?

A Yes.

Q Do you recall what the conversation was that you had with Carmen and Mr. Chu?

A He also repeated the same questions as before.

Q What did you say?

A I didn't say anything. I would just do according to what he say.

Q On April 7, 1975 did you go to immigration?

A Yes.

Q Who went with you?

A The lawyer and Carmen.

Q Were you interviewed?

A Yes.

Q Where was the lawyer when you were interviewed?

A He was with me.

Q Did you tell the truth?

A At that time the questioning was -- the question was not that important.

Q Did you tell the truth in answer to the questions?

A I can't recall what questions.

Q I show you what has been marked Government's

Exhibit 3534 for identification.

MR. KINGHAM: I would ask if Mrs. Moy could translate that to refresh the witness' recollection.

(Pause)

THE WITNESS: Yes, I remember.

Q What was it that you said to immigration that was not true at thattime?

A Because I did not always live in that apartment.

Q Did you tell them that you lived in that apartment?

A Yes.

Q Where did you tell them you lived?

A That's the apartment, 959 East 108th.

Q Following that interview, where did you go?

A After the interview I was working at that time.

Q Before you went to work, did you have a conversation with Mr. Chu?

A Then all three of us returned to the lawyer's office.

Q Was there a conversation there?

A Yes.

Q What was said?

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A He told me that immigration still did not believe in this marriage.

Q Did he say anything else?

A So he said I must stay there. must live there

Q Where was "there"?

A In that apartment.

Q Was there any discussion about Frances?

A Yes.

Q What was that?

A He told me that immigration was looking for this Frances

Q Where did Frances live at that time?

A Also stayed in this apartment.

Q After that meeting with Mr. Chu, did you move in in Brooklyn?

A Yes.

Q How long didyou stay there?

A I can't remember how many weeks.

Q Who lived there with you?

A Carmen and Frances.

Q After that meeting with Mr. Chu in early April, 1975, do you recall when the next time was that you saw him?

A I can't recall whether it was the early part of June or the end of May.

Q 1975?

A Yes.

Q Where did you see him?

A In his office.

Q Who was there?

A Just me.

Q Did you have a conversation with him?

A I told him that I did not wish to continue on this way and that to ask him to handle my divorce.

Q What did he say?

A He said it could be done and he could ask Carmen to go to Haiti where it could be done quickly.

Q Was there any discussion about the costs?

A He said yes, he would not take any money, but the lawyer on the other side will take about -- I can't remember whether it was $200 or $300.

Q What did you do after that meeting with Mr. Chu?

A Then I told Carmen and arranged a time with Carmen to go up to see Mr. Chu.

Q Did you and Carmen thereafter go to see Mr. Chu?

A Yes.

Q Was there a conversation among the three of you?

A Yes.

Q What was said?

A I was willing to pay for the air ticket and the money to handle the divorce case.

Q Did Mr. Chu say anything?

A And Mr. Chu said that he is going to write a letter to Carmen and have Carmen ask back for her birth certificate from the Immigration in order for her to go to Haiti.

Q What happened after that?

A Continuously there was no news, and I went to chase him.

Q Did there come a time when you and Carmen went back to the lawyer's office?

A Yes.

Q Do you recall when that was?

A I cannot recall exactly whether it was Friday or a Monday.

Q Do you recall the date?

A Probably the 8th, the 9th or the 10th. I cannot recall exactly.

Q Of what month?

A June.

Q Was there a conversation in the lawyer's office on that day sir?

A Yes.

Q What was said?

A I said I was willing to put up the money, but Carmen could not obtain her birth certificate.

Q What did the lawyer say?

A And then the lawyer said the only way is to have Carmen go to Puerto Rico to have her birth certificate duplicated.

Q After that meeting did there come a time when you went to the lawyer's office with your sister?

A Yes.

Q Do you remember when that was?

A I cannot recall the exact date.

Q Let me show you Government's Exhibit 3538 for identification.

I ask you to look at that and tell me if that refreshes your recollection as to the date?

A June 23.

Q Of what year, sir?

A '75.

Q Who was there besides you and your sister?

A Carmen and Frances.

Q Was the lawyer there?

A Yes.

Q Was there a conversation?

A Yes.

Q What was said?

A I promised to give her the money so that she can go to Puerto Rico to get the birth certificate.

Q Did the lawyer say anything?

A At that time Carmen all of a sudden changed her mind and said I have to give her money before she agreed.

Q At that time, did there come a time when there was a telephone call to the office?

A Yes.

Q Did Mr. Chu answer the phone?

A Yes.

Q Did he speak on the telephone?

A He said that the phone call was to look for

Carmen.

Q In what language did he say that?

A He spoke with me in Chinese.

Q Did he give the phone to Carmen?

A Yes.

Q What did he say?

A She said something in Spanish. I do not know that language.

Q Did she then give the telephone back to Mr. Chu?

A Yes.

Q What happened after that?

A Then Carmen, the two, Carmen and Frances, the two went out.

Q After Carmen and Frances left, did you have any conversation with the lawyer, Mr. Chu?

A Mr. Chu told me that the phone call was made by Alice.

Q Did he say anything else?

A No. No, I don't remember.

Q Did another phone call come?

A Yes, about ten minutes later another phone call came through for Mr. Chu.

Q After that phone call did Mr. Chu say anything to you?

A Yes. The lawyer say that the telephone call was made by Alice and Alice say that Carmen would not return here, and that she made an appointment with Mr. Chu to meet later on.

Q Did you leave the office at that time?

A I was very annoyed, so I left with my elder sister.

Q Was that Yar Lee Fu, your elder sister?

A Yes.

Q Calling your attention to June 25, 1975, two days later, did you see Mr. Chu that day?

A Yes.

Q Where did you see him that time, sir?

A In his office.

Q Who was present?

A There was another Chinese.

Q Was the lawyer there?

A Yes, the lawyer was there.

Q Do you know the name of the other Chinese?

A At that time I did not know, but later on I knw that his name was Mok.

Q Do you know who he was?

A The lawyer told me that it was Alice's husband.

Q Was there a conversation in the office among

you and Mr. Chu and Mr. Mok?

A Yes.

Q In what language?

A Also in English and some Chinese.

Q What was said?

A That Alice, leading the other girls, asked him for money.

Q Did he say anything else?

A I told him that I did not want anything, I just wanted to get my divorce and I did not want to take care of this man.

Q Was there any discussion about Jean Fong at that time?

A I wanted to leave, but he detained me. He said that he was going to call Jean Fong to see whether there is any ways.

Q "Any ways" what, Mr. Jout?

A I only had one goal, is to get the divorce.

Q Did Mr. Chu make a telephone call at that time?

A At that time I really didn't pay attention to whether he made a phone call or not. I wanted to leave.

Q Did you leave?

A Yes.

Q Before seeing him in the courtroom today, have you seen him since?

A No.

Q Have you ever met Alice Aviles?

A I actually did not know her.

Q Have you ever met her?

A I didn't even know what kind of person she is.

THE COURT: Have you ever met her?

THE WITNESS: No.

(Continued on next page.)

Q Have you ever been divorced, sir?

MR. FLEMING: Did your Honor ask a question of this witness? Because I did not hear the answer.

THE COURT: The answer was no.

MR. FLEMING: Thank you.

Q Have you ever been divorced?

A Yes.

Q When was your divorce?

A April 14.

Q What year?

A '76.

Q Did you obtain that in New York State?

A Yes.

Q Mr. Jout, in connection with your testimony at this trial have any promises been made to you concerning prosecution?

A No.

Q Were you not told that you would not be prosecuted for your part in this case?

A They promise me that if I tell the truth there will not be any problem.

Q You know that if you do not tell the truth you may be prosecuted for perjury. Do you understand

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that?

A Yes, I know.

Q Are you presently pending deportation proceedings?

A That I do not know.

Q Have you been told that in connection with any deportation proceedings that your cooperation in this case will be called to the attention of the immigration judge?

A There is nobody making the promise to me.

Q Do you recall that that representation was made to you in the United States Attorney's office?

A I did not make any request and they did not promise me any help.

MR. KINGHAM: Can we approach the side bar, your Honor?

THE COURT: You may.

(At the side bar)

MR. KINGHAM: Your Honor, I would request that we be permitted to stipulate that the representation was made to the witness, that he doesn't recall. I obviously can't call myself as a witness and I think it ought to be clear to the jury, if it isn't already, that it ought to be clear as a matter of record

that a representation was made to the witness that in connection with any deportation proceedings that his cooperation in the case would be called to the attention of the immigration judge.

MR. CONCANNON: Your Honor, I have no objection to Mr. Kingham taking the stand but I haven't received the 3500 material with respect to that cross-examination.

THE COURT: Are you willing to make the stipulation?

MR. FLEMING: No. I think Mr. Kingham should just tell the jury, Judge. I can't stipulate. I don't know it.

THE COURT: All right. You may make a representation.

MR. FLEMING: Sure. We will accept the representation.

(In open court)

MR. KINGHAM: If I may, your Honor, I would like to represent to the Court and to the jury at this time that a representation has been made by the United States Attorney's office to Mr. Jout that in connection with his testimony in this case that his cooperation in this matter will be called to the attention of the

immigration judge in any deportation proceedings which might be pending against him.

I have no further questions.

THE COURT: All right. I understand the defendants are willing to accept Mr. Kingham's representation.

MR. CONCANNON: I have no objection to that, your Honor.

MR. BARRY: I have no objection.

CROSS-EXAMINATION

BY MR. FLEMING:

Q Mr. Jout, my name is Fleming. I am an attorney and together with my partner, Mr. Sprizzo, I represent Mr. Gene Chu.

Do you now remember that the United States Attorney's office, that is, the prosecutor, promised you that they would bring your cooperation to the attention of the immigration court if there are any deportation proceedings? Do you now remember that?

A Yes.

Q When was that promise made to you?

A This is not a promise.

Q Did Mr. Kingham tell you this before the Court today?

THE COURT: You mean at any time up to the time he testified or are you limiting it to today only?

MR. FLEMING: I meant before he testified. I will rephrase the question.

Q Before you came to court today to give testimony undre oath did Mr. Kingham tell you that your cooperation would be brought to the attention of an immigration court if there was any deportation proceeding? Yes or no.

A Yes.

Q When did Mr. Kingham first tell you that?

A I cannot recall the exact date.

Q Was it a year ago?

A About two, three weeks before.

Q About two or three weeks before today's date?

A Yes.

Q How many times before today have you spoken to Mr. Kingham?

A Three times.

Q On which of those occasions, that is, the first, the second or the last, did Mr. Kingham tell you that your cooperation would be brought to the attention of the immigration court if there was a deportation proceeding?

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A I think it was the third time.

Q The last time?

A Yes.

Q That was after you had spoken to him and he had spoken to you on three occasions?

A I think so.

Q Was it on that same occasion that Mr. Kingham told you that you would not be prosecuted if you told the truth?

A I cannot recall whether it was on the same day.

Q Did you ever ask anyone in the government -- I am sorry.

You know Mr. Kingham, of course.

A I know him now.

Q He is the prosecutor?

A Yes.

Q You know Mr. Hittelman?

A Yes, I know him now.

Q Immigration investigator.

A Yes.

Q Did you ever ask Mr. Kingham or Mr. Hittelman or anyone else connected with the United States Government that you not be prosecuted?

A I did not make that request.

Q On your oath?

A I did not make that request.

THE COURT: Is this a good place for our afternoon break?

MR. FLEMING: If I may just have one more question, your Honor.

THE COURT: All right.

MR. FLEMING: One or two.

BY MR. FLEMING:

Q On or about June 25, 1975 you were in Mr. Chu's office when Mr. Chu told you that Alice Aviles leading the girls was trying to get money from Mr. Chu, is that correct?

A Yes.

Q And you talked to a lawyer in Washington after that, did you not?

A I did not have a lawyer in Washington.

Q Did you have a lawyer down in North Carolina?

A He is not actually my lawyer. He just helped me to fill out some forms.

Q Did you speak to a lawyer in North Carolina after you heard that the girls led by Alice were trying to

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extort money from Mr. Chu?

A No, I did not tell anybody.

Q That is not my question. My question is did you speak to a lawyer after you heard this.

A Speak about what?

Q About his immigration status.

A Yes.

Q Then did you go to see Mr. Hittelman?

A Yes.

Q On July 1, 1975?

A I cannot recall what date and which day.

Q Does that refresh your recollection?

A July 1st.

Q Five days after Mr. Chu had said that Alice leading the girls was trying to extort money from Mr. Chu?

A No, this I have --

Q Yes or no.

A This question cannot be answered with yes or no.

Q All right. I guess we can add June 25 and July 1st.

Did you not ask Mr. Hittelman, request of Mr. Hittelman, the assurance that you would not be prosecuted?

A I did not make that request.

MR. FLEMING: May I have that marked, please.

(Defendant's Exhibit B was marked for identification)

Q Would you read 17 and that first sentence, please.

Does that refresh your recollection?

A They wrote it down, but I did not make that request.

Q They wrote it down even though you didn't make the request. Did they say to you, you having said nothing, "This is United States Attorney's decision but with your cooperation favorable recommendation would be made to U. S. Attorney"?

A Yes.

Q And didn't Mr. Hittelman tell you that he hoped to make a case on a Chinese lawyer?

A No.

Q And that last answer is on your oath, is that correct?

A Yes.

MR. FLEMING: Would this be a good time for a break, your Honor?

THE COURT: All right.

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We will take a ten-minute break.

(Recess)

had signed divorce papers; is that correct?

A No.

Q As a matter of fact, you went and you lived with Carmen Miranda after you were married, did you not?

A After marriage, no.

Q Didn't you live with her until you went to North Carolina in September?

A No.

Q In fact, didn't you go to North Carolina because Frances, Francesca, told you that Carmen Miranda did not like men?

A No.

Q Wasn't it Frances that told you that Carmen Miranda did not like men? Yes or no?

A This question cannot be answered with a yes or no.

Q Did Frances, Francesca, tell you that Carmen Miranda did not like men?

A At that time actually I did not know Frances.

MR. FLEMING: May I have an answer to my question, if your Honor please?

THE COURT: He didn't even know her at that time.

MR. FLEMING: My question was, did Frances tell

Mr. Jout that Carmen Miranda did not like men.

THE WITNESS: During which period of time?

Q At any time.

A No, we never discussed this matter.

Q Didn't you tell Mr. Hittelman, on your oath, on July 1, 1975 that "Frances, whose last name I don't know, told me that all the girls involved in the marriages are gay girls, homosexuals"?

A You cannot say that all the girls are homosexual. You can say some of them.

MR. FLEMING: May I have struck, your Honor?

THE COURT: That may be struck.

Did you tell Mr. Hittelman that Frances told you that?

THE WITNESS: It has been mentioned.

MR. FLEMING: May I have an answer, your Honor?

THE COURT: Yes.

Did you tell Mr. Hittelman that Frances told you that all of the girls were homosexuals?

THE WITNESS: From what I know, only a few.

THE COURT: No. The question is not what he knows but what he told Mr. Hittelman.

THE WITNESS: Yes.

Q Wasn't that the truth, that Frances had told

you that?

A I don't know whether it was the truth.

THE COURT: No, the question is did Frances tell you that?

THE WITNESS: Yes.

Q When she told you that, did you say "I know, because Mr. Chu told me that about Carmen"?

A With whom? You mean ask whom?

Q Did you tell Frances that Mr. Chu had told you that Carmen Miranda, your wife, was a lesbian?

A I cannot recall exactly whether I have said that or not.

Q As a matter of fact, am I correct that when you spoke to Mr. Hittelman on July 1 you did not tell Mr. Hittelman that Gene Chu had told you that Carmen Miranda was a lesbian?

A He did mention it.

Q To Mr. Hittelman?

A Yes.

Q You told Mr. Hittelman that Mr. Chu had told you that Carmen Miranda was a lesbian; is that correct?

A Yes.

Q After you married Carmen Miranda, you paid her $480 for a rent deposit and security?

A Yes.

Q And you paid her rent of $170 a month?

A Yes.

Q And you paid her an additional $100 a month?

A This was the $2000 that we had to pay monthly.

Q So you paid her $100 a month until you had paid her $2000; is that correct?

A Yes.

Q And you also paid her $170 a month for her rent?

A Yes.

Q And her electricity?

A I did not often pay for electricity bills. Only once or twice.

Q And you continued to pay Carmen Miranda $100 a month plus $170 for rent up until May of 1975; is that correct?

A Yes, that's correct.

Q By the way, your sister is a permanent resident of the United States?

A Yes.

Q And she is awaiting citizenship?

A Yes.

Q When she becomes a citizen, have you been told

that she car sponsor you for permanent residence?

A Yes.

Q When is your sister going to become a citizen?

A This is not my decision.

Q When is she due for consideration to become a citizen?

A This I do not know.

Q You do not know?

A (Nodding negatively.)

Q Have you ever asked her?

A She doesn't even know.

Q Have you ever asked her?

A She and I, we are in the same boat. She doesn't know, so what's the point of asking?

Q May be, but it you could only answer my question, Mr. Jout.

THE COURT: Yes.

Did you ask her? Yes or no.

THE WITNESS: You don't have to ask. We both are very impatient.

Q Can't wait?

A This question, how can I answer you?

MR. FLEMING: Your Honor, could he just tell me whether he ever asked his sister when she expects to be

considered for citizenship?

THE COURT: Yes.

Please answer yes or no. Have you ever asked your sister when she will be considered for U. S. citizenship?

THE WITNESS: Yes.

Q What did she say to you?

A She doesn't have the authority to decide, so we have to wait to see when it is.

Q Has she told you when she thinks it is going to be acted upon?

A I have to wait until she gets citizenship.

Q Does she have a lawyer?

A No.

Q Am I correct that it turned out in June of 1975 that Carmen Miranda had not signed divorce papers prior to your marriage?

A Yes.

Q Did you tell Mr. Chu, "Mr. Chu, I trusted you, why didn't you get those divorce papers signed back before I got married?"

A Yes.

Q You did tell him that?

A Yes.

Q As a matter of fact, Carmen Miranda said she would't give you a divorce if you didn't give her another $500, didn't she?

A Yes.

Q And she asked you for $500 for a divorce the first time you asked her for a divorce on June 9, did she not?

A The first time?

Q You asked Carmen Miranda for a divorce on June 9, 1975; is that correct? Did you so testify?

A Yes, that's correct.

Q Didn't Carmen Miranda immediately say "No, not unless you give me 500 more dollars"?

A At that time she did not say.

Q Did you tell Mr. Hittelman that?

A Yes.

(Continued on next page.)

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Q What did you tell him?

A I told him the whole truth, the actual happening.

Q You told him that on June 9, 1975, Carmen Miranda said she would give you no divorce until you paid her $500, isn't that right?

A This June 9 event was taking place in the lawyer's office.

Q And on that day did you ask Carmen Miranda for a divorce?

A I should have.

THE COURT: The question is whether you did.

THE WITNESS: Because I can't recall that date.

Q Did you tell Mr. Hittelman on July 1, 1975, that on June 9, 1975, just 20 days previously that you saw Carmen Miranda and she agreed to go with you to the lawyer's office the next day?

A Yes.

Q And did you tell Mr. Hittelman that you went to the lawyer's office the next day with Carmen Miranda on June 10, 1975?

A Yes.

Q Did you tell Mr. Hittelman that in the lawyer's office Carmen Miranda told you that if you wanted to go back to Hong Kong, you could, but that if you wanted her to accept a divorce you would have to pay her an additional $500?

A Yes.

Q That was on June 10?

A If you want me to give you a definite answer, I have to look at my diary before I give you a definite answer.

Q Did you give Mr. Kingham a definite answer on direct examination, that she demanded $500 on June 25?

MR. KINGHAM: Objection, your Honor. The testimony speaks for itself.

THE COURT: Sustained.

MR. FLEMING: We will have to wait for the record on that.

Q A couple more questions, Mr. Jout. You went down to immigration with Carmen Miranda for an interview on April 2, 1974, is that correct?

A Yes.

Q And Mr. Chu went with you?

A Yes.

Q What time did you get to immigration that

morning?

A I remember that we were told to go there at 9 o'clock, but by the time we arrived there it must be about 10 o'clock.

Q About 10 o'clock, and did you testify that you were interviewed and Carmen Miranda was interviewed?

A Yes.

Q And that it took three or four hours?

A That's correct.

Q And that was after that was over, they took you to be questioned some more by other people?

A Yes.

Q And did you testify that in between the two questions Mr. Chu told you to continue to say the marriage was genuine?

A Yes.

Q And that Mr. Chu told you to continue to say that no money had been paid?

A Yes.

Q Isn't it a fact, Mr. Jout, that Mr. Chu had to leave Immigration that day substantially before 12 noon for other business?

A 10 o'clock -- not even 12 o'clock. It is about after 1 o'clock.

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THE COURT: Do you want to rephrase that? Is that an accurate translation of what he said?

THE INTERPRETER: I think he is thinking aloud to himself. That is why he keeps changing the time. I have to translate what he is saying, even though he is thinking.

THE COURT: Thank you.

MR. FLEMING: May I ask for a yes or no answer, your Honor, if it is at all possible?

THE COURT: Yes. Did he have to leave before 12 o'clock?

THE WITNESS: No.

Q Did he leave before 12 o'clock?

THE WITNESS: No.

Q As a matter of fact, when you spoke to Mr. Hittelman on July 1, 1975, you told Mr. Hittelman that Mr. Chu had gone back with you after the interview, didn't he?

A This is the interview in 1975, April 7?

Q April 2, 1974, the first interview.

A No, the first time, that time, we didn't return to his office.

Q My question was, when you spoke to Mr. Hittelman on July 1, 1975 didn't you tell Mr. Hittelman

that Mr. Chu had been with you throughout the entire interview of April 2, 1974?

A Yes. During the interview all along he was there. But after I signed the papers, he had already left.

Q Did you tell Mr. Hittelman under oath on July 1, 1975, that on April 2, 1974 "Our third scheduled interview at immigration, Carmen Miranda, Gene Loy Chu and I again appeared at the immigration office, at which time the interview took place"?

A The year 1974?

Q Yes.

A Yes.

Q And did you continue to say to Mr. Hittelman that "When we left the immigration office that day, Gene Loy Chu reemphasized that I should never mention anything about what I actually paid him"?

A Yes.

Q So am I correct that you told Mr. Hittelman that Mr. Chu was with you the entire day on April 2 and left eh immigration office with you?

A Mr. Chu left first.

MR. FLEMING: May I try once more, your Honor?

THE COURT: You may.

Q Did you tell Mr. Hittelman that you and Mr. Chu had left the immigration office together on that day?

A I can't recall whether I have said that.

Q Did you say with regard to April 2, 1974, "When we left the immigration office that day, Gene Loy Chu reemphasized," did you say that to Mr. Hittelman?

A We should not have left together.

MR. FLEMING: May I have an answer, if your Honor please?

THE COURT: Did you tell Mr. Hittelman that?

THE WITNESS: Your Honor, I can't remember.

THE COURT: He says he can't remember. (In English)

Q Today your recollection is that Mr. Chu left before you left, is that correct?

A Yes.

Q And he left about 1 o'clock, to your recollection?

A Yes.

Q And he didn't leave before 12 noon?

A No.

Q And he told you all these things you say he told you on direct examination?

A Who?

Q Mr. Chu.

A He said a lot of things to me. What things?

MR. FLEMING: I have nothing more.

MR. CONCANNON: No questions, your Honor.

MR. BARRY: I have no questions, your Honor.

THE COURT: Any redirect?

MR. KINGHAM: No redirect, your Honor. Thank you.

THE COURT: All right. Thank you.

(Witness excused)

THE COURT: Have you another short witness you can call this afternoon?

MR. KINGHAM: May we approach the side bar?

THE COURT: You may.

(At the side bar)

MR. KINGHAM: Your Honor, I have available Mr. Jout's now former wife, Carmen Miranda, whose testimony on direct examination is quite lengthy. It

will take about an hour or an hour and 15 minutes. We could begin her this afternoon and take up again Monday, or whatever the Court's pleasure is. She is available.

THE COURT: It is ten minutes after 4 now. We would have 35 minutes, approximately. I think that since we want to finish next week, it might be good to get her started, at least, without totally destroying the continuity of her story.

MR. KINGHAM: I may be able to get about halfway through her testimony. When I reach a logical stopping point, I will let the Court know.

(In open court)

MR. KINGHAM: The government calls Carmen Miranda.

C A R M E N M I R A N D A , called as a witness by the Government, being first duly sworn, testified as follows:

MR. KINGHAM: May I inquire, your Honor?

THE COURT: Please.

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Miranda, I would ask you to keep your voice up so that everyone in the courtroom can hear you. Will you do that, please?

A Yes.

Q Do you also use the name Tracy?

A Yes.

Q Are you a citizen, Miss Miranda, of the United States?

A Yes, I am.

Q Where were you born?

A I was born in Puerto Rico, but I was raised in New York City.

Q Have you ever been married?

A Yes, I have.

Q When were you married?

A August 17, 1973.

Q What was your husband's name?

A Joseph John Jout.

Q Where did you meet Mr. Jout?

A I met him in Mr. -- the lawyer's office.

THE COURT: Excuse me. You seem a little hoarse Would you like a glass of water?

THE WITNESS: No, it's okay. I talk like that.

Q Do you see the lawyer here in the courtroom?

A Yes, I do.

Q Would you point him out, please.

A He is sitting right over there, with the glasses.

Q There are several people at the table with glasses.

MR. FLEMING: It's not disputed.

THE COURT: All right.

The record may reflect the identification of Mr. Chu.

Q Before you met your husband, Mr. Jout, did you meet a woman named Jean Fong?

A Yes, I did.

Q Do you know her by any other name?

A Jean Fong.

Q Do you know her by any other name?

A Mom.

Q Do you see her in the courtroom?

A Yes, I do.

Q Where is she?

A She is sitting right over there.

MR. KINGHAM: Indicating the defendant Jean Fong, your Honor.

THE COURT: The record may so reflect.

Q Where was it that you met Jean Fong?

A I met her in her house.

Q Where was that?

A That was around Delancey Avenue.

Q In New York City?

A Yes.

Q Do you recall when it was generally that you met Jean Fong?

A It was around May.

Q Of what year?

A 1973.

Q Who was present at her house when you met her?

A It was Imgard Cruz, myself, Jean Fong, Francesca Torres and Diego Miranda.

Q Is Diego Miranda your brother?

A Yes.

Q Was there a conversation among those people?

A Yes.

Q What was said?

A We were talking about the marriage.

Q Who said what, if you recall?

A Mom said that we would get $3500 plus our rent and $10), depending how much the Chinese man were willing to give us.

Q Did you say anything to that?

A Yes.

Q What did you say?

A I say okay.

Q Did she say anything else, that is, Jean Fong?

A Yes. She say that the next day we have to see the lawyer.

Q Did Imgard Cruz say anything?

A Yes. She said that "How about me?"

Q What did Jean Fong say to her?

A She said that she can't because she was pregnant.

Q Did there come a time when you met Gene Loy Chu, the lawyer?

A Excuse me.

Q Did there come a time when you met the lawyer, Gene Chu?

A Yes, I did.

Q When was that in relation to when you met Gene Fong?

A The next day.

Q Where?

A In his office.

Q Do you remember where that was, Miss Miranda?

A That was around Chinatown.

Q Who was there when you met him?

A Jean Fong, myself and the lawyer.

Q Did you have any conversation then?

A Yes. He asked me if I had my birth certificate.

Q Did Jean Fong say anything?

A Jean Fong introduced us to -- introduced me to him.

Q What did she say?

A That this was Carmen Miranda, that she was willing to get married.

Q What did the lawyer say?

A That if I had a birth certificate.

Q What did you say?

A I said no.

Q Was there any other conversation?

A Yes. He said that how soon can I get my birth certificate.

Q What did you say?

A That I had to write to Puerto Rico.

Q Was there any conversation about money?

A Yes. He asked -- he told me that I would get $3500 plus -- $1500 when I got married and $100 every month, depending how much the Chinese man were willging to give us.

Q Was there any conversation about where you would live?

A Yes.

Q What did he say?

A That if I had an apartment.

Q What did you say?

A I said no, but I was living in my sister's house.

Q What did he say to that?

A That I have to get an apartment.

Q Was there any discussion about sex?

A No.

Q When did you next see Gene Chu when was the next time after that day that you saw him?

A When I got my birth certificate.

Q Did you see him at any time again before that?

A I don't recall. I don't remember.

Q Do you recall meeting a man named Wan Chiu Fan?

A Yes.

Q Where did you meet him?

A I met him in the lawyer's office.

Q Who was present when you met him?

A Jean Fong, myself and the lawyer and I.

Q Was there any conversation at that time?

A Yes.

Q What was that conversation?

A I was supposed to marry the Chinese man.

Q Did the lawyer say anything?

A Yes.

Q What did he say?

A He said that if I got my birth certificate.

Q What did you say?

A I said no, not yet.

Q Was there any other conversation?

A We had to go get a blood test.

Q Did you do that?

A Yes.

Q Who went with you?

A Jean Fong.

Q Do you remember where it was that you went?

A That was around where she used to live, where she lived.

Q Around Delancey Street in Manhattan?

A Yes.

Q Where did you go after you had the blood test?

A I went home.

Q Let me show you what is Government's Exhibit 21-B in evidence, Miss Miranda.

Would you take that and tell me if you recognize the people in that picture.

A Yes. My sister, Mildred Miranda, her husband, Jean Fong and Ingard Cruz.

Q Her husband, what name did you know him by?

A We knew him by the sneaker man.

Q Why did you call him the sneaker man?

A Because he always wore sneakers.

Q Was that the man that you mean in Gene Chu's office?

A Yes.

Q That you have just talked about?

A Yes.

Q After you met that man in Gene Chu's office when was the next time that you saw Mom or Jean Fong?

A In my house.

Q How often did you see her in your house?

A Not that often.

Q Did you also see her at her house?

A Yes.

Q Do you recall any conversations that you had at your house?

A Yes. She wanted to find out if my birth certificate came.

Q When you had that conversation who was present?

A Mildren Miranda, myself, Imgard Cruz, Francesca Torres and the Chinese man.

Q What did you say?

A I told them that I didn't have my birth certificate.

Q What did Jeannie say?

A Jean told me -- Jeannie told me that he needed to get married as soon as possible.

Q What did you say?

A That didn't have my birth certificate.

(Continued on next page.)

Q Did anyone else say anything?

A Yes. Mildred Miranda said that she was willing to marry him.

Q What did Jean Fong say?

A It was okay.

Q What happened after that?

A She had to go, Mildred Miranda, to the lawyer's office.

Q That is your sister Mildred who is in that picture, is that correct?

A Yes.

Q After that did you see Jean Fong from time to time at your house and at her house?

A Sometimes.

MR. CONCANNON: Your Honor, I object. I understand that sometimes it may be difficult to get a witness to say what the witness is supposed to say, but --

MR. KINGHAM: I object to that.

MR. CONCANNON: -- the testimony is from there and not from here. It has been continuous. I have been hesitant, but I don't think it should reach the extent that it just has.

THE COURT: The objection is sustained.

Q After that time did you see Jean Fong again?

A Sometimes we did.

Q How often?

A Around twice, once.

Q Where did you see her?

A She used to come to my house.

Q Did you see her anyplace else?

A Sometimes in her house.

Q Did there come a time when your birth certificate arrived from Puerto Rico?

A Excuse me? Yes.

Q Did there come a time when your birth certificate came?

A Yes.

Q What did you do when you got your birth certificate?

A I called her up.

Q Who?

A Jean Fong.

Q What did you say to her?

A I told her I received my birth certificate.

Q What did she say?

A So she told me that she was going to call the lawyer to make an appointment.

Q After that did you have occasion to see Gene Loy Chu the lawyer?

A Yes.

Q Where was that?

A In his office.

Q In relation to the conversation you had with Jeannie Fong, when was it?

A About a week.

Q Who was present at his office?

A There was Jeannie Fong, myself, the lawyer and Joseph Jout.

Q Was anyone else there?

A With his sister.

Q Was there a conversation on that occasion?

A Yes. They wanted us to get out blood test.

Q Was there any other conversation?

A He was talking about the money.

Q Who was?

A The lawyer.

Q What did he say?

A He said that we would get 3500 plus our rent and $100 every month, depending how much the Chinese man was willing to give us.

Q What language was the conversation in on that occasion?

A He used to talk to me in English, but sometimes he used to talk to John in Chinese.

Q Who do you mean by John?

A Joseph John Jout?

Q Is that the man that you later married?

A Yes.

Q After that meeting in Mr. Chu's office what did you do?

A We went to get blood tests.

Q Who was that who went?

A Jean Fong, myself and Joseph Jout with his sister.

Q Do you recall the date that you went for blood tests, what day that was?

A It was on the 13th, the 13th, on a Friday.

Q Of what month,do you recall?

A 1973.

Q Do you recall what month it was?

A What mondh? I don't remember.

Q Let me show you what has been marked Government's Exhibit 30A for identification, and ask you if you would look at that, Miss Miranda.

A August 7.

Q Does that refresh your recollection?

A Yes.

Q It was August 7, 1973, is that correct?

A Yes.

Q Do you recall where it was that you went for the blood tests?

A We went around -- a small place around Chinatown

Q Did there come a time when you went to City Hall?

A Yes, we did.

Q Who went to City Hall with you?

A Jean Fong, myself, Joseph Jout and Jimmy Yu.

Q Had you ever seen Jimmy Yu before then?

A That was the first time I met him.

Q Do you see the man you know as Jimmy Yu in the courtroom?

A Yes.

Q Where is he?

A He is standing right there.

MR. KINGHAM: Indicating the defendant Jimmy Yu.

jhr6 C. Miranda-direct

THE COURT: The record may so reflect.

Q Let me show you, Miss Miranda, what is Government's Exhibit 29 in evidence. Would you look at that, please.

Do you recognize that document?

A Yes.

Q Have you seen it before?

A Yes. That was when we went to City Hall.

Q Does your signature appear on the document?

A Yes.

Q Do you know who filled it out?

A Jean Fong.

Q Which portion did Jean Fong fill out?

A The right.

Q Is that the portion that relates to yourself?

A Yes.

Q Did you sign it?

A Yes, my signature.

Q Miss Miranda, after that document was signed at City Hall doyou recall what you did?

A Yes. Jimmy Yu told me that if I had any problems to go to his restaurant and to -- whatever problem I needed, to just go to his restaurant.

Q On August 17, 1973 were you married to

Mr. Jout at City Hall?

A Yes.

Q Before the wedding that day where did you meet?

A I met Jimmy Yu and Joseph Jout downstairs next to the lawyer's office.

Q In Chinatown?

A Yes.

Q Who was present at your wedding at City Hall?

A Mom, Jean Fong, myself, Jimmy Yu and Joseph Jout.

Q After the wedding did you have any conversation with Jimmy Yu?

A Yes, I did.

Q What did he say?

A He told me that if I needed any help, any problem, that just to go to his restaurant

Q Did you receive anything from him?

A Yes. He gave me a card.

Q Do you know where the card is today?

A No, I don't have it.

Q What was on the card?

A It said the Lantern Light first and then the telephone.

Q Do you recall any other conversation with him at that time?

A Yes, that that was his cousin.

Q That who was his cousin?

A Joseph John Jout.

Q After this conversation with Jimmy Yu where did you go?

A We went to the lawyer's office.

Q Do you recall who it was that went to the lawyer's office?

A Just Joseph John Jout, myself and Jean Fong.

Q Was Jimmy Yu there?

A No, he left.

Q What happened at the lawyer's office?

A He gave me an envelope with $15,000 -- $1500.

Q Who gave it to you?

A The lawyer.

Q Was it cash or a check?

A No, it was cash.

Q Do you recall the denominations?

A Just $100 bill.

Q What did you do with the money at that time?

A I gave Mom $200.

Q Let me show you what has been marked Government's

Exhibit 24B for identification, Miss Miranda. If you would take that and look at both sides of it, please.

Does your signature appear on that document?

A Yes.

Q When and where did you sign it?

A When the lawyer gave us -- when the lawyer gave me the money.

Q Is that the day or your wedding?

A Yes.

Q Where was it that you signed it?

A In the lawyer's office.

MR. KINGHAM: Your Honor, at this time I would offer into evidence Government's Exhibits 24A through 24F for identification as Government's Exhibits 24A through F, respectively, again, the subject of the stipulation.

MR. FLEMING: No objection.

(Government's Exhibits 24A-24F were received in evidence)

MR. KINGHAM: Your Honor, I believe the stipulation is that with respect to Government's Exhibits 24A and its contents, that is, the attachments, that they were received by the immigration service at the date and time stamped, which is August 21, 1973 at

9:33 a.m., and it has also been stipulated that Government's Exhibits 24A, 24B and 24F contain the signature of Gene Loy Chu written by him.

With the Court's permission I would like to read a portion of Government's Exhibit 24A, which is the cover letter and will explain the contents.

THE COURT: You may do so.

(Mr. Kingham read from Government's Exhibit 24A in evidence)

Q Miss Miranda, with respect to Government's Exhibit 24B, the form I-130, and reading from Government's Exhibit 24B, if I may, your Honor, block 16 which says in block 16D, "Last address at which you and your spouse resided together, 32-49 86th Street, Jackson Heights, New York, USA, from August '73 to the present," did you ever live at 32-49 86th Street in Jackson Heights?

A No, I never did.

Q Do you know whose house that is?

A Jimmy Yu's.

Q Block 27, "I reside in the United States at 32-49 86th Street, Jackson Heights, New York," did you reside at that address at that time?

A No.

Q Did you ever tell Mr. Gene Loy Chu that you resided at that address?

A No.

MR. KINGHAM: If I may, your Honor, reading from Block 3, signature of peeitioner, Carmen Miranda Jout, subscribed and sworn to or affirmed before me this 25th day of August, 1973, New York, New York, signed Gene Loy Chu, notary public.

Block 4, signature of person preparing form, I declare that this document was prepared by me

at the request of the petitioner and is based on all information of which I have any knowledge, signed Gene Lay Chu, 9 Division Street, New York, New York, August 20, 1973.

BY MR. KINGHAM:

Q Miss Miranda, at the time you signedthat form, was there any conversation about it?

A Yes. They told me how to spell my name, my last name.

Q Who told you that?

A Gene.

Q Gene Chu or Jean Fong?

A Gene Chu.

MR. KINGHAM: Your Honor, I think this would be an appropriate break time.

THE COURT: As I told you earlier, I have other matters set that will occupy me all day tomorrow, so we will recess until 10 o'clock Monday morning and resume at that time. Don't discuss the case in the meantime with your fellow jurors or with anyone else.

Have a good weekend.

(Jury not present)

MR. FLEMING: Your Honor, could I make a

very brief request? It seems to me that the United States is in a position to provide us with the date upon which Jout's sister is eligible for citizenship, and I think we should have that because it is relevant to his credibility.

MR. KINGHAM: The answer is we don't know, your Honor. The application for Mrs. Fu, Yar Lee Fu, for citizenship is pending. It will come up in the normal course. I don't know the exact date. I will make inquiry of immigration and see if there is any determination we can make as to the exact date. The point is whether or not the witness knows of the date from his testimony, and he doesn't.

THE COURT: I think it is at least proper inquiry, and I would ask that you and/or Mr. Hittelman try to find out what is the production date when it will come up for consideration.

(Pause)

MR. KINGHAM: Your Honor, if I may, Mr. Hittelman informs me that the best we can do on that is to determine within a time span when her application will come up along with the other applications that were filed at the time that hers was, and I will make an effort to do that tomorrow and report to the Court

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on Monday.

THE COURT: Fine. Have a good weekend.

(Adjourned to Monday, May 10, 1976 at 10 a.m.)

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WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
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29		380
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UNITED STATES OF AMERICA

vs. 76 Cr. 439 (WCC)

GENE LOY CHU, et al.

May 10, 1976
10:00 a.m.

Trial resumed

- - -

(In open court; jury not present)

THE COURT: I received a telephone call this morning from Lois Mold, Juror No. 7, who says she became quite ill last night, was ill all night and was unable to get out of bed this morning. She thinks it is a virus. I said under the circumstances she could stay in bed.

I ask whether or not it is agreeable to all counsel to substitute for her the first alternate juror, Mr. Brooks.

MR. KINGHAM: The government has no

objection to that, your Honor.

MR. FLEMING: Your Honor, how did Mrs. Mold indicate she would be out?

THE COURT: She doesn't know. She just said she couldn't get out of bed today.

MR. FLEMING: Judge, I think we would all like to keep Miss Mold.

MR. CONCANNON: Your Honor, that is my feeling.

MR. BARRY: That's my feeling, your Honor.

THE COURT: The only problem is that if we take the day off,we probably wouldn't finish this week, which means we have to hold the jury over for an extra week. In addition, we have no assurance at all that she will be in even tomorrow. We might be taking more than one day off.

MR. CONCANNON: Your Honor, I understand from the government that they now expect that it is unlikely they will be finished this week under any circumstances, that it is likely to drift at least slightly into next week.

If it is a day or two, I feel, frankly, rather strongly. Obviously, estimating which jurors are with you and which are against is guessing at best,

nevertheless we, being defense counsel, agreed at the outset that this was the sort of person and actually the particular person we would like to have.

THE COURT: You also had no objection to Mr. Brooks.

MR. CONCANNON: That's true, your Honor, but we did feel at the time that she had a certain savvyness to her character and the way she answered indicated that. We thought she would be helpful to us.

MR. FLEMING: She has been very attentive, your Honor, from my observation.

THE COURT: That isn't to say that Mr. Brooks has been inattentive, I hope.

MR. FLEMING: No, that is not.

THE COURT: I hate to waste a day and perhaps two or three days waiting for one juror when we have four alternate jurors for exactly this purpose.

Do you want to comment, Mr. Kingham?

MR. KINGHAM: Your Honor, first of all, with respect to the scheduling, the government will rest tomorrow. If the trial proceeds with the dispatch that it has thus far without any undue delays, we may be able to rest by the luncheon recess tomorrow, which would

leave plenty of time for argument of motions and the defense case, if any, say on Wednesday and perhaps charging and going to the jury Thursday.

So although there is the possibility that because of the length of any defense case could drift into next week, we fully expect to rest tomorrow. The optimum would be by the luncheon recess.

With respect to excusing I believe it is Mrs. Mold, the government has no objection, and we see it certainly within the Court's discretion under the circumstances here with this jury now going into its third week of impanelment, and also the fact that there are four alternates -- I should call something to the Court's attention, I know Mr. Fleming will mention this, so it may have some bearing and I think we ought to talk about it all at the same time.

Saturday evening, at about 6:30 on the Saturday evening news, which is the National Broadcast program hosted by Dan Rather, there was a four or five-minute news spot concerning allegedly fraudulent marriages, there was an interview with an immigration official in Miami, there was considerable discussion about schemes very much like the scheme which the government charges in this case.

Mr.Fleming has an excerpt from that program that somebody provided him, and I have no objection to the Court seeing that. I am sure it is accurate. I only saw the last two or three minutes -- I have seen it. Perhaps he can hand it up to the Court.

We might be in a position where I think we should inquire of the jury as a whole whether they saw the program and then individually question any juror who did as to the extent of his observations, whether it would prejudice him and whether he has discussed it with his fellow jurors. I think that would be essential under the circumstances.

MR. CONCANNON: Your Honor, would you consider possibly examining the jury in this connection before actually deciding whether or not to substitute for Mrs. Mold?

THE COURT: I will do that.

MR. CONCANNON: Because what we are asking, really, is to take a chance, really, on today. Possibly that would take a good bit of the morning for that examination alone, and we wouldn't really be wasting more than a half a day if we could just hold off until tomorrow.

THE COURT: I don't know why this examination

will take more than a moment, if nobody has heard the program, which is a fair possibility.

MR. CONCANNON: In any event, your Honor --

MR. FLEMING: My feeling on Mrs. Mold, if the stipulation were one where she couldn't be back for a couple of days or three days, I would still want her but I wouldn't think we could rationally object.

The situation is where she might be available tomorrow. We picked the jury, I think she has been very attentive, and I like her.

THE COURT: I will first interrogate the jury about this television program and then I will decide on the other matter.

Bring the jury out, if you will.

MR. KINGHAM: Your Honor, I request that procedurally a general question be put, of course, and then if anyone raises his hand, we do that individually.

THE COURT: I will do that.

MR. FLEMING: That will be in the robing room?

THE COURT: Yes, yes.

MR. CONCANNON: May I ask, your Honor will your inquiry cover the prospect that in addition to their having seen the program, they may have heard about it

through someone else? That's the way it came to my attention. Mr. Barry indicated that he heard it on the golf course yesterday when there was some discussion about it, so I would ask that you cover that situation as well.

(Jury present)

THE COURT: Before we resume the trial this morning, I want to ask you a question, and if any of you would give a yes answer to the question, just raise your hand. Don't say anything and I will speak to you privately.

Did any of you see a program on CBS television Saturday night in which Dan Rather discussed the subject of marriages of aliens to U. S. citizens?

Juror No. 6, you did see that program?

JUROR NO. 6: Yes, I did, sir.

THE COURT: Nobody else saw it? Did any of you hear about the program from any friends?

JUROR NO. 9: He was just telling us this morning in the jury room.

THE COURT: He did? I want to see him privately -- not privately, but with counsel, in the robing room, if you will come in, please, sir.

(In the robing room)

THE COURT: Your name, sir?

JUROR NO. 6: My name is Roy Henry Agoney.

THE COURT: Did you see the entire portion of the program that related to this subject?

JUROR NO. 6: A portion. In Miami, Florida.

THE COURT: What impact, if any --

JUROR NO. 6: None whatsoever to this case.

THE COURT: To this case?

JUROR NO. 6: None whatsoever. There was no evidence that I -- the only evidence that I will presume is the evidence that's brought into this court and only that evidence.

THE COURT: It wouldn't have the slightest effect on your decision in this case?

JUROR NO. 6: None whatsoever, sir.

THE COURT: Did you come away with any impression --

JUROR NO. 6: No, I have not.

THE COURT: -- from that program that there is a substantial problem in this country with bogus marriages?

JUROR NO. 6: None whatsoever.

THE COURT: Does any counsel wish to ask the juror a question?

MR. FLEMING: Just the conversation in the

jury room.

MR. KINGHAM: Other than that, your Honor, no.

THE COURT: Exactly what did you tell the other jurors this morning?

JUROR NO. 6: No, I just asked the other jurors this morning if they have seen the television show pertaining to that Miami, Florida situation.

THE COURT: Did you tell them anything about it?

JUROR NO. 6: No.

THE COURT: Anybody want to ask him any questions?

MR. BARRY: I have no questions.

MR. KINGHAM: I have none for Mr. Agoney, your Honor.

THE COURT: Is there any motion --

MR. KINGHAM: Perhaps we could excuse Mr. Agoney.

THE COURT: If you will excuse us, please.

JUROR NO. 6: Sure, sir.

(Juror No. 6 left the robing room)

MR. FLEMING: Could we confer, your Honor?

THE COURT: Sure.

(Pause)

MR. FLEMING: Judge, our one conclusion that we have reached is that we think you have to talk to each juror. We don't know how many heard it.

THE COURT: He has already said he didn't tell them anything about the program.

MR. SPRIZZO: I think we ought to get the testimony of the other jurors to be sure.

MR. FLEMING: I heard Mrs. Lynch say something like "He told us about the program."

THE COURT: Well, bring her in. If we bring one other person in, that's enough.

MR. FLEMING: Would your Honor ask the one person how many jurors were in the room when the comments were made?

THE COURT: Yes. We will bring in the one that you suggested because she did say that she had heard about the program from him, so we will bring her in.

THE CLERK: I just spoke with Mrs. Mold. Right now she says she feels miserable. She is under the impression that it is a virus. She says there is a possibility that she may come in tomorrow. She won't know until later in the day. She couldn't give

me a fiem yes or no.

THE COURT: I don't see how she could, if she still feels miserable.

THE CLERK: She said right now she does.

THE COURT: What's the name of the juror --

MR. CONCANNON: Mrs. Lynch. Juror No. 8.

(Juror No. 8 entered the robing room)

THE COURT: I would like you to tell us exactly what Mr. Agoney, the other juror, said about the Dan Rather television show, if you will, please.

JUROR NO. 8: When he came into the jury room he said "Anybody watch the 6 o'clock news Saturday night," and I don't think anybody had watched it except him, and he said it was the exact same case, only it was down in Florida. That's all he said.

THE COURT: Same case?

JUROR NO. 8: Yes, about int marriages.

THE COURT: Did he use the expression "same case" or "same subject matter," or what?

JUROR NO. 8: I don't know if he said exactly the same case or, you know, it was like the same one we were on.

THE COURT: The same subject?

JUROR NO. 8: Yes.

THE COURT: You are not sure exactly what words he used?

JUROR NO. 8: No.

THE COURT: He didn't tell you anything that was on the program?

JUROR NO. 8: No, he did not. He just said it was like it had taken place in Florida.

THE COURT: Anyone have any questions?

MR. FLEMING: Would your Honor inquire as to how many jurors were present?

JUROR NO. 8: I think ten, about. About ten of them.

MR. BARRY: Would your Honor ask whether or not this was made as a general statement to everybody?

THE COURT: I assumed that from the statement --

JUROR NO. 8: He asked whoever was there if anyone had had seen the news at 6 o'clock Saturday night.

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No one said they had seen it, except himself.

MR. FLEMING: I guess your Honor has to inquire as to whether it had any effect.

THE COURT: Would his comment have any effect on you in deciding this case?

JUROR NO. 8: No.

THE COURT: He didn't state whether Rather expressed any feeling about the practice of these marriages between aliens and U. S. citizens?

JUROR NO. 8: No. Since no one had heard the program, I guess he just dropped the subject.

THE COURT: Thank you very much.

(Juror No. 8 left the robing room.)

THE COURT: Under the circumstances, I will not excuse any of the jurors, unless you want to move to exclude Mr. Agoney himself, I might consider that, and I will substitute the first alternate juror for Mrs. Mold, and we will proceed with the trial this morning.

MR. FLEMING: Judge, I really would ask -- I don't want to delay your Honor, but I really would ask that you question the other jurors. I think we have to know if the statement had any effect on them.

THE COURT: We have had it from two people now that he didn't say anything at all about the program

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except to ask whether anyone had seen it.

MR. FLEMING: What I heard what he said was basically it was a program on CBS about the same case, like the one we had.

THE COURT: She wasn't sure he used the expression "same case." I will interrogate one other juror. You pick the juror.

MR. FLEMING: I just think you have to ask them all.

THE COURT: Somebody else pick a juror. I am not going to take time to interrogate 15 jurors where there is no dispute between the two people who have already been interrogated as to what happened.

MR. FLEMING: My point, your Honor, is that you have to determine whether or not it had any impact on the minds of any of the jurors.

THE COURT: How could it have an impact since there was no discussion of the contents of the program, other than the general subject matter involved?

MR. FLEMING: Judge, I don't want to get into a quarrel with your Honor. My feeling is that when something is on national news, Dan Rather is a national program, somebody comes in and states "Did you see the 6 o'clock news on Saturday? It is the same case as the case we are

trying," then that makes the case we are trying a little more important to the jury.

THE COURT: I will interrogate them as a group and ask anyone to hold up his hand if he thinks the program or the comment had any effect.

Do you think I should do any more --

MR. KINGHAM: I don't, your Honor, since it is clear, there is corroboration, there was no further discussion of it. The Government is concerned ultimately with respect to the prejudice with regard to Mr. Agoney himself. Mr. Agoney is the one who saw the program.

The Court has seen the news excerpt from the program and there was a substantial discussion in the program itself about the nature of allegedly fraudulent marriages and about the fact that the job market is depleted by people coming in, and so forth. The Government, frankly, is concerned that perhaps there may be prejudice on the part of Mr. Agoney.

Of course, if the defense wishes to waive any possible prejudice on Mr. Agoney, that is fine, but the Government otherwise, unless the defense waives that, would move to exclude Mr. Agoney.

MR. CONCANNON: Your Honor, may we have a moment to confer?

THE COURT: You may. I thought that is what you were conferring on before.

MR. CONCANNON: We were. It occurred to us first that your Honor should inquire as to exactly what was heard.

THE COURT: You may confer again.

(Pause.)

THE COURT: Shall we excuse Mr. Agoney or not?

MR. FLEMING: Judge, we are still conferring with our clients, who are confused themselves.

THE COURT: I don't feel we ought to take any more time on it, otherwise we will have killed the day. I will excuse him.

MR. FLEMING: May I just make -- let me tell you our feelings. We are a little split on Mr. Agoney. I personally feel that he has come in here and said something about a CBS broadcast. There were apparently ten jurors in there, at least. If you excuse Agoney and leave everybody else on there and let the trial go forward, I think the jurors are going to say to themselves, "Gee whiz, whatever Agoney heard must have been terrible or else why is he being excused."

I do not want a mistrial in this case because I do not think we are doing so badly. I do not see how

we will do any better in another trial. I do not see how we can avoid the pollution question, your Honor. The only remedy I can see is to mistry the case because of the communication he had with the other jurors.

THE COURT: He had no communication insofar as substance goes. He only asked whether anybody saw the program and then he said something to the effect that the program involves similar subject matter.

MR. CONCANNON: Your Honor, but it is a criminal case, and when you say the subject matter is the same or the case is the same, it says something more than the words, because it indicates a somewhat widespread problem. Whether it is Miami or New York, it has some influence beyond the simple statement. It is the same --

THE COURT: The problem may be with overzealous prosecution by District Attorneys who think there is a problem and there is not.

MR. FLEMING: That is the other problem, your Honor. They actually had an INS interviewer or agent on that television program, which I think is improper.

MR. BARRY: Then you have one other problem. How can we control the jurors, that they will not go out and try to find out what was on that program? This to me was very important.

THE COURT: I will instruct them on that. If you all agree that you don't want me to excuse Mr. Agoney, I will not do so. Unless you tell me not to excuse him, I will do so.

MR.BARRY: Your Honor, we have a disagreement as to what we should do, your Honor.

MR. CONCANNON: I think we could reach an agreement in another minute or two.

THE COURT: I will give you two more minutes.

MR. FLEMING: Just one more thing on the record. Another thing that bothers me about this is that the Government is the Government, it is one Government. I don't know if this is the only case that is pending for trial, but this indictment was returned two or three or four months ago, and INS put somebody on television, on national television, to say this is a terrible problem and most of the cases we come on are frauds.

INS is part of the Government. I think with pending litigation, that's an impropriety which requires a sanction and at the very least requires a mistrial.

THE COURT: I understand that Mr. Kingham talked to the local INS office, and they had no information that there was going to be any such program. Is that correct?

MR. KINGHAM: That is correct, your Honor. I spoke with the Assistant District Director on the phone this morning of the New York Regional office, and he told me that he inquired not only of the District Director but also of the various heads of the section in the Immigration office here in New York, none of whom had any knowledge in that this program had either been taped or was going to be aired.

Certainly, had they had such knowledge and communicated it to me, I would have made the Court aware of it last Thursday. But our office, that is the U. S. Attorney's office in this District, and indeed the Immigration office for this entire region, did not know of the existence of this program, so there was nothing obviously that we could do about it in avance. That's the inquiry I made this morning.

MR. FLEMING: I am not challenging that statement, your Honor, particularly about the U. S. Attorney's office. It is like the Giglio case where someone in the U. S. Attorney's office knows a particular deal has been made and the fellow that prosecutes the case does not, the Supreme Court throws out the conviction because they say it is one Government and you cannot put it in compartments.

Here is one Goverhment having to know that at

least this indictment is pending trial and allowing one of its investigators to be interviewed by national CBS television, making a statement that most of these cases are frauds. It goes on the air in the middle of the trial.

THE COURT: You do not know whether the Government was even aware that this man was being interviewed. He may have done this entirely on his own.

MR. FLEMING: My point, your Honor, is that I do not think you are dealing in areas of intent or motive in this kind of situation. The point is that they did it and it went on the air right in the middle of the trial, and they probably filmed that tape, certainly they filmed this thing while the indictment was pending trial. That is an impropriety on the part of the Government.

MR. CONCANNON: Actually, here you have a situation where it is not another branch but a sub-agency of the Department of Justice. It is really the same organization. Not only is it one Government, it is more particular in this case.

THE COURT: I think you are all assuming that the Government was somehow responsible for this broadcast. I do not think that is a fair assumption at all.

MR. FLEMING: Judge, you don't sit for a televised conference, you don't ask questions in front of

a television camera if you do not have some idea that you are going to use that contents.

THE COURT: I am not saying that the INS agent himself wasn't aware of the fact that he was being interviewed for purposes of television. All I am saying is that there is no indication here that his superiors in the service were aware that there was going to be such a broadcast.

MR. BARRY: Your Honor, I can make this statement, that no lINS man goes on television unless he clears it with his superior. That I can tell you as a fact.

MR. KINGHAM: Your Honor, even if that be the case, the bottom line here is that the program was only viewed by one juror, a juror whom in the interest of fairness the Government thinks ought to be excused. His communication to the other jurors really was that such a program had taken place and there was no further dicussion. I doubt that there could be any possible taint, regardless of the way in which the program reached the air.

THE COURT: I want you to tell me in two minutes whether you agree on excusing Mr. Agoney.

(Pause.)

MR. FLEMING: Your Honor, I think I am speaking for all counsel. We believe that the jury has been polluted and we believe that a mistrial should be declared. We believe that the dismissal of Mr. Agoney alone as a juror will simply cause the other jurors to speculate as to precisely what Mr. Agoney heard which caused his dismissal as a juror and will heighten their speculation that what he heard was adverse to these defendants.

THE COURT: I think I can give a cautionary instruction that will eliminate the significant possibility of prejudice because of that.

MR. FLEMING: Your Honor, we all think each of the jurors should be questioned. That is one thing.

Second, we think a mistrial should be declared in any event because we don't think the conclusion canbe avoided.

Third, we oppose the discharge of Mr. Agoney because we believe the discharge of Mr. Agoney will simply heighten the speculation as to what he heard.

THE COURT: So you oppose the discharge of Mr. Agoney as a group.

MR. FLEMING: Yes, your Honor.

THE COURT: Mr. Kingham, what do you feel under the circumstances?

MR. KINGHAM: Under the circumstances, your Honor, we will agree to leave Mr. Agoney on the jury.

THE COURT: All right. I will ask the jurors as a group whether or not there is anyone who because of the comment of Mr. Agoney or otherwise has any impression about the content of that program.

MR. FLEMING: I would prefer if your Honor did it individually. I make that application.

THE COURT: That is going to take a considerable period of time. We have taken already an hour this morning in trying to straighten this matter out and I hate to take another half hour.

MR. FLEMING: Judge, you know, it's the old thing of jurors in a group. No one wants to admit that they have been influenced because no one wants anyone to think that they are unfair.

THE COURT: Mr. Kingham, do you see any reason why I should interrogate the jurors individually, beyond what we have already done?

MR. KINGHAM: I don't believe so, your Honor, under the circumstances, beyond what has already been done, particularly Mrs. Lynch at the suggestion of the defendants being called in and her statement in essence corroborating Mr. Agoney's.

MR. FLEMING: Your Honor, we have one further application and that is that we do ask for, in addition to a mistrial, a dismissal or the indictment based upon someone in the Immigration & Naturalization Service going on what they had to know was a national television matter and commenting on a matter which they had to know was a subject of indictment in New York and perhaps other Districts.

Our position is it is a single Government and the Government is held to hwatever improprieties any agent of that Government engages in.

That is our application. It should be dismissed as a sanction for this kind of conduct.

THE COURT: Since we have deternined that there is no prejudice that has resulted insofar as the trial of this case is concerned, I will deny your motion.

MR. FLEMING: Finally, your Honor, in view of your Honor's denial of t[illegible] motion, could I reserve the right to request, if there is a verdict adverse to these defendants, could I reserve the right to request a hearing on the question of this INS interview post-trial, to determine precisely the intention with which the Immigration officer did act and the authority with which he acted and who at Immigration knew he was going on a national television show.

jhs

THE COURT: You can make any motin that you want to make at the appropriate time. I hold out no hope to you that that motion would do anything other than waste your time.

MR. FLEMING: I didn't want to waive that right to request that hearing and therefore I am requesting it post-trial since obviously to hold it now would unduly interfere with the conduct of the trial.

Finally, I would ask for a one-day adjournment so that Mrs. Mold could return.

THE COURT: That request is denied.

(In open court.)

THE COURT: I apologize for the delay. Before we start I want to ask one last question of the jury as a group. This is directed to everyone except Mr. Agoney.

Is there any of you who from the comment or question that was asked or made by Mr. Agoney this morning got any impression about the content of that program, that is, whether or not there was any opinion expressed by the commentator about the general subject of marriages between aliens and U. S. citizens?

Is there any of you that feels because of the fact that there was such a program or the fact that one of your jurors saw it and made a brief comment about it that

you will be in any way affected in reaching a fair and impartial verdict on the facts of this case?

I want to instruct you that this case is going to be tried on the evidence presented here and I want you to put completely out of your mind the fact that there was a program on TV Saturday night which relates to the same general subject matter. Your decision should be based only on the evidence here and the instructions that I will give you at the conclusion of the trial as to the applicable law.

If anyone tries to tell you about that program Saturday night cut them off immediately, and if they persist and tell you anything about the program, then I ask that you report the matter to us here in court so that counsel will be fully aware of what happened and they can take whatever steps they feel necessary under the circumstances. I don't want you to get any extra judicial input, that is, any information or facts or opinions about the subject matter of this case outside of this courtroom.

Now, I am going to excuse Mrs. Lois Mold, who was Juror No. 7, who called in ill. She became quite ill last night and is still in bed and is very sick this morning. She does not know for sure when she would be able to come back.

jhs

Under the circumstances I felt it necessary to excuse her. We are going to substitute the first alterate juror, who is Mr. Brooks. If you will take her seat, please. The other three alternate jurors can move over and we can get rid of that one extra chair that is in the aisleway there.

All right. Mr. Kingham.

MR. KINGHAM: Thank you, your Honor.

The Government would recall Carmen Miranda, who was on the stand at the time we recessed.

MR. FLEMING: Your Honor, could we mark the document that was submitted to the Court as Court Exhibit 1?

MR. KINGHAM: No objection.

THE COURT: You may.

(Court's Exhibit 1 was marked for identification.)

xx C A R M E N M I R A N D A , resumed.

MR. KINGHAM: May I inquire, your Honor?

THE COURT: Please.

DIRECT EXAMINATION (Continued)

BY MR. KINGHAM:

Q Miss Miranda, with respect to Government's Exhibit 24-B -- would you take that in your hand please -- the document about which you testified on Thursday before

we broke, when you signed this document in Mr. Chu's office was the document blank or was it filled in?

A It was filled in.

Q At the time that you signed it did anyone explain it to you?

A No.

Q Did you know what it was?

A No, I didn't.

Q Was anything said about the form?

A Yes, that I had to learn my last name, Jout.

Q Who said that?

A Mr. Chu.

Q Would you please speak up so that we can all hear you in the courtroom, Miss Miranda.

On the day of your wedding, after you were in Mr. Chu's office, as you have testified, where did you go aftr that?

A We went to the lawyer's office.

Q And after the lawyer's office where -did you go?

A Upstairs to the lawyer's office.

(Continued on next page.)

2B

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Q After the meeting that you have testified about on Thursday in the lawyer's office, when you signed the form, do you recall where you went?

A Yes. I went home.

Q Where were you living at that time?

A 2185 Valentine Avenue.

Q Do you know where your husband, Mr. Jout, went?

A No.

Q After that day did you have occasion to speak with Mom again?

A Yes.

Q Do you recall when that was?

A That was around a week ago.

Q About a week later?

A Yes.

Q Was that on the telephone or in person?

A On the telephone.

Q What did you say to each other?

A I told her that I needed $400 for my rent.

Q What did she say?

A She said to call Jimmy Yu.

Q Did she say anything else?

A No. That I remember, no.

Q What did you do?

A I called Jimmy Yu.

MR. CONCANNON: Your Honor, I didn't hear the last answer.

THE COURT: The reporter may read it.

(Record read)

Q Did you speak with him on the phone?

A Yes.

Q What did you say to each other?

A I told him that I would like to speak to him.

Q What did he say?

A He told me to come down.

Q Did you meet him?

A Yes.

Q Where?

A In the first Lantern Light.

Q Was that a restaurant?

A Yes.

Q Do you remember where that was, Miss Miranda?

A I guess it was around 90 -- 59th Street, around there. I don't remember.

Q Was that on the east side or the west side?

A West side.

Q Did you have a conversation with him?

A Yes. I told him I needed $400 for my rent.

Q What did he say?

A He told me that that was not included with the marriage. So I told him to call the lawyer because the lawyer told us that that was included with the marriage.

Q What did he say?

A He gave me the $400.

Q Cash or check?

A Check.

Q What did you do with the check?

A I took it to my landlady.

Q Where was your landlady then, where did you live?

A 959 East 108th Street.

Q In Brooklyn?

A Yes.

Q Had you just obtained that apartment?

A Yes.

Q Who lived there with you?

A Francesca Torres.

Q Had you lived with Miss Torres before that?

A Yes.

Q Where had you lived with her before that?

A 2185 Valentine Avenue.

Q Did your husband, John Jout, live with you

at that time in Brooklyn?

A No.

Q By the way, did you ever have sexual relations with Mr. Jout?

A No.

Q Did he keep his belongings in that apartment?

A Yes, some of them.

Q What types of things did he keep there?

A He would keep his undershirts, his pants and some shoes and a couple of things, shaving lotion.

Q During the period after you moved to Brooklyn did you see Jimmy Yu?

A Yes.

Q Where did you see him?

A I would see him in the Lantern Light.

Q How often?

A Every month.

Q What would happen when you would see him?

A He would give me a check for $100 and I would sign it and he would give me money in return.

Q Would you receive cash from him then?

A Yes.

Q Do you know where that money came from?

A From John.

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Q How did you know that?

A He used to tell me that John used to send him money.

Q Who would tell you that?

A Jimmy Yu.

Q During the wao or three months after your wedding did you have occasion to go to Gene Chu's office?

A Yes.

Q Who did you go with?

A With John and myself.

Q Did you ever go with Frances?

A Yes, I went once with Frances.

Q Do you recall any conversations between Frances and the attorney when you were present?

A Frances was having a misunderstanding with him because Frances' husband didn't want to give --

MR. FLEMING: Your Honor, could we just have the conversation?

THE COURT: Yes. State what you said and what they said.

Q What did Frances say to the lawyer and what did he say to her, if you recall?

A Frances told him that where is Tommy, how

come Tommy hasn't given her her money.

So the lawyer told her that he doesn't know where Tommy is, that he will get in touch with Tommy, he would try to get in touch with Tommy.

Q During that time did you go to the lawyer's office with anyone else?

A No.

Q Do you know anyone named Cela?

A Yes. I took two girls to see the lawyer named Cela and Mary.

Q Before you took those girls to see the lawyer did you have a conversation with him about them?

A Yes. He told me that they weren't qualified and that he was too hot.

Q In the months following your wedding, during your visits to Jimmy Yu, did you ever have conversations with him?

A With Jimmy Yu?

Q Yes.

A Yes. Jimmy Yu asked me thatif I could find him a nice girl to marry his friend.

Q What did you say?

A I told him I will see about it.

Q Did there come a time when you met a girl

named Lisa Hernandez?

A Yes. I met her through my brother.

Q Who was your brother?

A Diego Miranda.

Q Where did you meet her?

A In 2185 Valentina Avenue.

Q Whose apartment?

A My brother's.

Q At the time you met Lisa Hernandez did you have a conversation with her?

A Yes. I told her that if she was willing to get married for $3500 and her rent would be paid if she had an apartment and depending how much the Chinese man were willing to give her.

Q What did she say?

A She said it was okay.

Q What did you do after that?

A I told her to meet me at 59th Street to go to see Jimmy.

Q Didyou meet her?

A Yes.

Q Where did you go?

A We went to the Lantern Light, the restaurant.

Q Who did you see there?

A We saw Jimmy and we saw the man that she was supposed to get married with.

Q Was there any conversation with Jimmy at that time?

A Yes. Jimmy was telling her about the procedure that she had to go.

Q What did he say, if you recall?

A He told her that she would get 3500 plus the rent and they were discussing how much rent was she paying and they were talking about her job. That's all I could remember.

Q Did you remain the entire time?

A Yes. I wasn't listening too well.

Q Did you ever receive any money from Lisa Hernandez?

A Yes, I did.

Q When was that?

A That was after Lisa got married.

Q Do you remember where?

A In 14th Street.

Q How much did you receive from her?

A $200.

Q You mentioned, Miss Miranda, that Imgard Cruz was present at Jean Fong's house when you first

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met Jean Fong?

A Yes.

Q Where did she live at that time?

A She lived in 2185 Valentine Avenue.

Q At that time how long had you known her?

A Around a month.

Q How did you come to know her?

A I met her by Mildred Miranda. She used to work with Mildred Miranda.

Q Is Mildred your sister?

A Yes.

Q Was she pregnant at the time you first met Jean Fong?

A Yes, she was.

Q Did she subsequently have the baby?

A Yes.

Q After she had the baby did you have a conversation with her about getting married?

A Yes. She wanted to get married. So I told her that she would have to go to Gene the lawyer's office and we went the next day.

Q What happened when you went to Gene the lawyer's office the next day?

A Gene was interviewing her and telling her

that she would get paid 3500 and that she had to go get her blood test and if she had her birth certificate.

Q At that time did anyone else come to the office?

A Yes.

Q Who was that?

A Her Chinese man.

Q Do you remember his name?

A Brian.

Q Was there any conversation when Brian arrived?

A Yes. The lawyer introduced Brian to her and told them that they had to go and get their blood test as soon as possible.

Q What did you do after that?

A I left, I went home.

Q Did you subsequently receive any money from Imgard?

A Yes.

Q Do you remember when that was?

A That was the day she got married.

Q How much did you receive?

A 250.

Q Where?

A In the lawyer's office.

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Q Who was present when you received that money?

A Imgard Cruz, Brian, Margie Hernandez, myself, Francesca Torres and the lawyer.

(Continued on next page)

Q During the time of Imgard's wedding, where were you living?

A I was living in 959 East 108th Street in Brooklyn.

Q Who was living there with you?

A Francesca Torres.

Q Do you know where your husband was?

A No.

MR. KINGHAM: Your Honor, Government's Exhibit 25 for identification offered as Government's Exhibit 25 is the subject of a stipulation.

MR. FLEMING: No objection.

(Government's Exhibit 25 was received in evidence)

MR. KINGHAM: May I read from Government's Exhibit 25, your Honor?

THE COURT: You may.

MR. KINGHAM: The stipulation with respect to this is that this is a copy of a letter retained in the regular course of buisness by the immigration service, and the phrase "cc" before Mr. Gene Loy Chu's name reflects that a copy was sent to him.

(Mr. Kingham read from Government's Exhibit 25 to the jury)

BY MR. KINGHAM:

Q Do you recall receiving that notice?

A Yes.

Q After you received this notice dated February 13, 1974, what did you do?

A We had to go to the lawyer's office.

Q Who went there?

A John, myself and thelawyer was there.

Q Did you have a conversation?

A Yes. The lawyer told us if we studied the apartment, and we told him no. So he told us that we weren't ready to go.

Q Was there any other conversation?

A No, I dont remember.

Q Do you know where Mr. Jout was living at that time?

A In Jackson Heights. He was living there.

Q Was there any conversation about that?

A I don't remember.

Q Following that did he move in with you?

A Yes.

Q Where did he move in with you?

A 959 -- in Brooklyn.

Q Who else lived there?

A Francesca, myself and him.

Q Who slept where in the apartment?

A John slept in the parlor and Francesca and I slept in our room.

Q After that meeting in the lawyer's office, did there come a time when you went back to his office?

A Yes.

Q Do you recall when that was?

A No, I don't remember.

Q I show you what is Government's Exhibit 26 in evidence, a notice dated March 5, 1974.

Do you recall receiving that?

A Yes.

Q Addressed to you at 32-49 86th Street, Jackson Heights?

A Yes.

Q After receiving this notice, what did you do?

A We went to the lawyer's office.

MR. KINGHAM: Your Honor, ifI may read again from this in evidence, 26 was received earlier.

(Mr. Kingham read from Government's Exhibit 26 in evidence to the jury)

BY MR. KINGHAM:

Q After receiving that notice and going to the

lawyer's office, was there a conversation at that time in the lawyer's office?

A Yes. We had to study about the apartment. The lawyer told me if John studied the apartment, so he was giving John some tests.

Q Do you recall any other conversation? What kind of a test was he giving?

A About the immigration, the things that he was supposed to say.

Q What did the lawyer say?

A The lawyer said that if John knew the color of the bedroom, if he knew the color of the curtains from the bathroom.

Q Was there any conversation about how you had met?

A Yes. He told us that if -- they asked me if I met him so fast, that to tell them that love -- don't I believe in love at first sight.

Q Was there any conversation about where you met?

A Excuse me?

Q Was there any conversation about where you had met?

A In the Lantern House.

Q Did you tell the lawyer that?

A Yes.

Q Was that true?

A No.

Q Where did you meet?

A We met in the lawyer's office.

Q Was there any conversation about where John was living?

A No.

Q Where had he been living before that, if you know?

A In North Carolina. That's what they used to tell me that he was living.

Q Was there any conversation about that?

A I don't remember.

Q After that conversation that you had in the lawyer's office, did you go to immigration?

A Yes, we did.

Q Where did you go, over to West Broadway?

A Yes.

Q What happened there?

A We went upstairs, but I needed identification, so they didn't accept me. So I had to come back.

Q What kind of identification did you need?

A Social security.

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Q Were you interviewed at that time?

A Yes.

Q Did you have to come back again?

A Yes.

Q Did you obtain a new social security card?

A Yes, I did.

Q When was that?

A The next day I left the lawyer's office, we went, we got asocial security.

Q In what name did you get the social security card?

A In Carmen Jout, but it was because --

MR. FLEMING: I object to that.

THE COURT: Sustained.

Q Following your obtaining the social security card, did you have a conversation with the lawyer about it?

A Yes. He told me that why was it I got it in Carmen Jout.

Q What did you say?

A I told him I signed the applications saying that I was married, so the lady told me that I have to sign it with my marriage name.

Q What did Mr. Chu say about that?

A He said, well, let's see if we make it.

Q Did there come a time when you went to immigration to be interviewed after that?

A Yes.

Q Were you interviewed on April 2, 1974?

A Yes, I was.

Q Prior to going to the immigration office that day, where did you go?

A We first went to the lawyer's office.

Q Who went there?

A John, myself and the lawyer was there.

Q Was there any conversation?

A Yes. The lawyer was asking John about the apartment again, and if I had got my birth certificate.

Q Was there any other conversation, if you recall?

A I don't remember.

Q After that did you go to the immigration office?

A Yes, we did.

Q Were you interviewed?

A Yes.

Q Who was with you while you were interviewed?

A It was the lawyer, myself and the lady and

man.

Q Were the lady and the man the people who were interviewing you?

A Excuse me?

Q The lady and the man, were they the officials conducting the interview?

A Yes.

Q Where was your husband while you were interviewed?

A He was sitting down outside.

Q Were you interviewed first?

A Yes.

Q Did you tell the truth at the interview?

A No.

Q What did you say that was not true, if you remember?

A I told them that I got Buffy.

Q Who was Buffy?

A My dog, before I got married, and it wasn't true. I got Buffy after I got married.

Q Did you tell them how you met?

A Yes.

Q What did you say?

A I told them that I met him in the Lantern

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House when he first came, and that I fell in love with him.

Q Was that true?

A No, it is not true.

Q How long did your interview take?

A My interview?

Q How long.

A Not that long. Around 15 or 20 minutes.

Q After your interview, what happened?

A Then John came in.

Q Was he interviewed?

A Yes, he was.

Q Were you present during his interview?

A No, I wasn't.

Q Where were you?

A I was outside, sitting down.

Q Where was the lawyer, Mr. Chu?

A He was with John.

Q How long did John's interview take?

A Around 20 minutes.

Q After that was finished,what happened?

A I saw John coming out with the lawyer very surprised and very shocked, so --

MR. FLEMING: I object to that.

THE COURT: Yes, don't tell us how he looked. That's your interpretation, you see. Only tell us exactly what he did or what he said or what you did or what you said.

Q What was said at that time?

THE COURT: The jury will disregard the statement about his condition.

A He told us that we made a mistake.

Q Who said that?

A The lawyer, and that if I was willing to go with it -- to it. So I told him yes.

Q What happened after that?

A They took us upstairs and they took fingerprints.

Q Were you interviewed again upstairs?

A Yes.

Q Did you sign a statement at that time?

A Yes.

Q Did you tell the truth?

A No.

Q Was Mr. Chu present at the time you were interviewed upstairs?

A He was, but then he left.

lhrll C. Miranda-direct

THE COURT: You mean he left during the interview?

THE WITNESS: Yes.

(Continued on next page.

Q Miss Miranda, how much time in all did you spend at the Immigration offices that day, if you recall?

A Around four hours.

Q After the second interview or at the second interview, did you tell the truth?

A No.

Q After that interview was over, where did you go?

A I went home.

Q Where did Mr. Jout go?

A I don't know.

Q After that interview in April of 1974 did he live with you in Brooklyn?

A For a couple of days.

Q Who else lived there?

A Francesca Torres and myself.

Q Let me call your attention, Miss Miranda, to April of 1975. Do you recall being interviewed by the Immigration Service in April of 1975?

A Yes.

Q Where was that?

A That was in my house.

Q Do you recall a prior interview at the Immigration office?

A Yes.

Q Before going to the Immigration office, where did you go?

MR. FLEMING: Can we fix a time for the interview at the Immigration office, if it is different?

THE COURT: Yes.

MR. KINGHAM: I will, your Honor.

Q Do you recall the date of your interview in April, 1975 at Immigration, the exact date?

THE COURT: Has it been established that it was in April, the first interview?

MR. KINGHAM: This would be the second interview, your Honor.

THE COURT: I think this was still another one for a different purpose.

MR. FLEMING: That's what I thought.

THE COURT: Do you recall the date of the second interview at the Immigration & Naturalization Service?

THE WITNESS: I don't remember the date.

THE COURT: Was it in April, 1975?

THE WITNESS: Yes.

Q Let me show you, if I may, Miss Miranda, Government's Exhibit 3527 for identification. I ask you to

look at that.

Does that refresh your recollection as to the date of the interview in April, 1975?

A Yes.

Q What was that?

A That was -- I don't remember when that was.

Q Let me show you this again. Does that refresh your recollection now?

A Yes.

Q What date was that?

A That was the fourth of 1975.

Q April 7, 1975?

A Yes.

Q Before you went to that interview, where did you go?

A We went to the lawyer's office.

Q Who is "we"?

A John, myself and the lawyer was there.

Q Did you have a conversation with the lawyer at that time?

A Yes.

Q What was that?

A He told us that we really have to go through with it this time.

Q Did you then go to Immigration?

A Yes.

Q Were you asked questions?

A Yes.

Q Did you tell the truth?

A No.

Q Calling your attention to June 7, 1975, were you visited by Immigration agents that day?

A Yes.

Q Where?

A 959 East 108th Street in Brooklyn.

Q What did they do?

A They came in and they asked for John, and I told them that John wasn't around.

Q Did you give them a statement at that time?

A Yes, I did.

Q After the Immigration agents came to your house and left, what did you do?

A I went and I got Francesca Torres and I told Francesca that we have to call the lawyer because they came to my office and I had to tell the truth.

Q Did you call the lawyer?

A Yes.

Q After that did you see him?

lhs C. Miranda - direc5

A Yes.

Q Where did you see him?

A We saw him in the lawyer's office.

Q Who was present?

A Francesca Torres and myself and the lawyer.

Q Do you recall if there was a conversation?

A Yes. I told the lawyer that the Immigration came to my office and I had to tell something, the truth.

Q What did he say?

A He told me that it was his name mentioned, and I said no.

Q What did he say after that?

A He said that I have to go get my birth certificate in the Immigration so I could get my divorce.

Q After that did you go to Immigration?

A Yes.

Q What happened there?

A They told me that they weren't going to give me my birth certificate, that I needed a lawyer. So I went back to Gene Cha's office.

Q Did you have a conversation with him?

A Yes, I did.

Q What was said?

A I told him that why was it that he sent us over

there knowing that they weren't going to give us the papers.

Q What did he say?

A He said he didn't know about it.

Q Did you see him again after that day?

A Yes. He told us to come the next day, that he would call John to talk to John about my divorce.

Q Did you go back the next day?

A Yes.

Q When you went back the next day, who was there?

A Francesca Torres and myself, the lawyer and five minutes later John and his sister came.

Q Was there any conversation?

A Yes. We were making arrangements, how to go from there to --

Q What was said, if you recall?

A The lawyer told me that first of all I needed a birth certificate, that I would have to stop in Puerto Rico, then get my birth certificate, then go to Haiti and get my divorce,and then come back.

Q During that conversation, did the phone ring?

A Yes.

Q What happened?

A There was somebody in the phone, and he was saying, "But why, but why," and then he gave me the phone.

Q Who was saying that?

A The lawyer.

Q Did you speak on the phone?

A Yes, I did.

Q Without saying what was said, tell us who was on the other end of the phone.

A Alice Aviles was on the other phone.

Q Did you speak with her?

A Yes.

Q After you spoke with her, what did you do?

A We left.

Q Who is "we"?

A Francesca Torres and myself.

Q Where did you go?

A We went to Pitt Street.

Q How did you get there?

A We ran.

Q How long did it take you?

A Around 20 or 15 minutes, something like that.

Q When you got to Pitt Street, who was there?

A Alice Aviles with her aunt and a couple of people outside.

Q After that did you see the lawyer Gene Chu?

A Yes.

Q Where did you see him?

A We saw him in front of the street.

Q How much later did he arrive?

A 15 or 20.

Q When you first saw him, where were you?

A I was inside a car.

Q Where was he?

A He was talking to Alice outside his car.

Q Did you hear anything?

A I just heard that Alice told him that she wanted $15,000 and that he said, "But why are you doing this to me, what have I done to you?"

Q What did she say?

A I don't remember what she said, because she started talking very soft.

Q Did you hear anything else at that conversation, if you recall?

A No. I don't remember.

Q How long did that conversation that Mr. Chu had with Alice Aviles take?

A Around 15 minutes. It was fast.

Q After that was over, what happened?

A Alice came to the car.

Q Where did Mr. Chu go?

A I guess to his office, but I know he left.

Q Did you ever see him again after that?

A No.

Q Miss Miranda, in connection with your testimony in this trial, have any promises been made to you by the Government?

A Yes.

Q What is that?

A They told me that if I would tell the truth, that I would not be prosecuted.

Q Can you be prosecuted for perjury if you lie under oath at this trial, if you do not tell the truth?

A Yes.

MR. KINGHAM: No further questions, your Honor.

CROSS EXAMINATION

XX BY MR. FLEMING:

Q Are you divorced now?

A Yes.

Q Do you call yourself Miss Miranda now?

A Yes.

Q Miss Miranda, my name is Fleming, and I, together with Mr. Sprizzo, represent Mr. Chu, Eugene Chu, the attorney.

A Yes.

Q You testified that you went down to Immigration headquarters in April of 1975?

A Yes.

Q Did you go down to Immigration headquarters again in April, 1975?

A Yes, I did.

Q Then did Immigration come to your house in June of 1975?

A Yes.

Q That was June 2? Beginning of June?

A Yes, it was.

Q It was before this conversation on the telephone with Alice Aviles, it was before that?

A Yes.

Q And it was before any conversation with Mr. Jout about divorce?

A Before, yes.

Q By the way, you call Mr. Jout "John"?

A Yes.

Q When Immigration came to your house on June 2, did they tell you that they were investigating you?

A Yes, they did.

Q Did they tell you that they thought you might be

in some trouble?

A No, they didn't.

Q Did they say they were investigating you for violation of U. S. laws?

A No, they didn't.

Q They just said they were investigating you?

A They were investigating where was my husband.

Q Excuse me?

A They were investigating where was my husband.

Q They weren't investigating you?

A No.

Q Just investigating where your husband was?

MR. KINGHAM: Objection, your Honor. Asked and answered.

MR. FLEMING: I agree. Withdrawn.

THE COURT: Sustained.

Q During that interview you said that you wanted to tell the truth, isn't that correct?

A Yes.

Q Your husband wasn't there at that time, was he?

A No, he wasn't.

Q Mr. Chu wasn't there at that time, was he?

A Not in my house.

Q It was you and the Immigration people?

A Yes.

Q You told the Immigration people that you and your husband John lived together during August of 1973 after you were married, did you not?

A Yes, I did.

(Continued on next page.)

Q And that wasthe truth?

A That was not true.

Q You mean having determined that you were going to tell the truth you then told them a lie?

A Yes.

Q Do you remember being interviewed by a Mrs. LaRocca?

A In my house, yes.

Q Mr. LaRocca was an investigator working for us, the attorneys for Mr. Chu?

A Yes.

Q He interviewed you just this April 1976?

A Yes, he did.

Q Did you tell Mr. LaRocca:

"When we got married my husband and I stayed at my apartment at 959 East 108th Street, Apartment BV, Brooklyn, for three or four weeks"?

Did you tell Mr. LaRocca that?

A After I got married?

Q Did you tell Mr. LaRocca:

"When we got married my husband and I stayed at my apartment awt 959 East 108th Street, Brooklyn, for three or four weeks"?

A No, I am sorry, I never told him that.

Q You did not?

A No.

Q On your oath?

A Yes.

Q Did you tell him that John then left and went to North Carolina?

A No, I did not.

Q You say that after your interview of June 2, 1975, when Immigration came to your house -- by the way, during that interview, after you said you wanted to tell the truth, did you tell Immigration that you didn't love your husband but that he loved you?

A Yes, I did.

Q And was that the truth?

A No, it wasn't.

Q Did you tell Immigration -- this is on June 2, 1975, in your apartment -- did you tell Immigration that your husband pays for everything?

A Yes, he did.

Q That was the truth?

A Yes, that's the truth.

Q Did you testify on direct examination that you would receive $100 a month?

A Yes.

Q In fact, weren't you receiving $100 a month plus $170 a month for rent?

A Yes.

Q And didn't you receive that from John Jout from the day you were married until June 1975?

A Yes.

Q On your direct examination by Mr. Kingham did you forget that Mr. Jout was also paying you $170 a month for your rent?

A Yes.

Q You forgot it?

A No, I hand't forgot it.

Q You just left it out?

A I guess so.

Q He was paying the electricity sometimes too, wasn't he?

A Yes, he was.

Q Is it your testimony that after Immigration came to your house on June 2, 1975 you went to Mr. Chu's office and Mr. Chu told you you would have to get a divorce?

A Yes.

Q It was not John Jout who said that he wanted a divorce?

A No, it was Mr. Chu.

Q Is the answer no?

A Yes.

Q It was Mr. Chu and not John Jout?

A No.

Q As a matter of fact, didn't John Jout ask for a divorce on or about June 10, 1975 and didn't you say "I won't give you a divorce unless You give me $500"?

A Yes, I did say that.

Q So John Jout did ask you for a divorce?

A No.

Q Did you also say to John Jout "You are going to lave me stranded me"?

A Yes, I did.

Q Do you say it was at that time, just a week or so after Immigration came to your house, that Mt. Chu got the telephone call from Alice Aviles?

A Yes.

Q Isn't it true that on or about June 10 you refused to give John Jout a divorce unless you were paid $500 and it was two weeks later, on June 23, that you were in Mr. Chu's office and Alice Aviles called?

A No.

Q Didn't you testify on your direct examination that you had met Jean Fong in May of 1973 at her house?

A Yes.

Q And that you had met her with Imgard Cruz, Francesca Torres and Diego Miranda, your brother?

A Yes.

Q Isn't it a fact that you were introduced to Jean Fong by Alice Aviles?

A No.

Q Going back again to Mr. LaRocca, the investiggator, didn't you tell Mr. LaRocca that "I met Jeawn Fong through a friend, Alice Aviles?

A No, I didn't.

Q Do you know Mr. Hittelman?

A Yes, I do.

Q You call him Gary?

A I call him Mr. Hittelman.

Q Do you remember being interviewed by Mr. Hittelman?

A Yes.

Q And that was after the telephone call from Alice Aviles when you ran 20 minutes to meet her?

A Yes.

Q Do you recall telling Mr. Hittelman, the Immigration Service, on July 23 --

A No.

THE COURT: Let him finish the question.

You may start again.

MR. FLEMING: Thank you, your Honor.

Q Do you recall telling Mr. Hittelman or did you tell Mr. Hittelman on July 23, 1975 that Alice Aviles brought you to Mom's apartment?

A No, I didn't

MR. FLEMING: May I have this marked for identification,

(Defendant's Exhibit C was marked for identification.)

xx Q Miss Miranda, would you read to yourself from here to here, just to yourself.

Did you tell Mr. Hittelman --

A I told Mr. Hittelman, yes.

Q You did tell Mr. Hittelman --

A Yes.

Q You told Mr. Hittelman it was Alice Aviles who took you to Jean Fong's apartment, is that correct?

A Yes.

Q Did Mr. Hittelman tell you that if you told the truth you would not be prosecuted?

A Yes.

Q Did you give that statement under oath?

A Yes, I did.

Q Did Mr. Kingham tell you that if you told the truth you would not be prosecuted?

A Yes.

Q Did Mr. Kingham tell you that if you told a lie you would be prosecuted?

A Yes.

Q Did Mr. Kingham tell you that he was the prosecutor?

A No.

Q Do you know who Mr. Kingham is?

A Yes.

Q He is an Assistant United States Attorney, is that right?

A Yes.

Q Do you know that he is a prosecutor?

A Yes, I do.

Q I ask you again, did you tell Mr. LaRocca on April 21, 1976 that you met Jean Fong through a friend, Alice Aviles?

A I didn't meet John Fong through Alice Aviles.

MR. FLEMING: May I have an answer, your Honor --

A I met her --

Q No, no. Wait, wait.

THE COURT: The question is whether you told Mr. Hittelman.

MR. FLEMING: No, Mr. LaRocca. She has admitted she told Mr. Hittelman.

A No, I didn't tell him that.

Q You did not tell Mr. LaRocca that?

A No, no.

(Continued on next page.)

Q Did you tell Mr. LaRocca that Mr. Chu never told you to lie?

A Excuse me?

Q Did you tell Mr. La Rocca on the same day, April 21, 1976, that Mr. Chu had never told you to lie?

MR. FLEMING: May I ask my question again, your Honor?

THE COURT: Yes. The question is what you toldMr. LaRocca. Did you tell Mr. LaRocca that Mr. Chu never told you to lie?

A No.

Q And you never told Mr. LaRocca that John Jout had lived with you in Brooklyn after you were married until he went to North Carolina?

A No.

MR. KINGHAM: Objection, your Honor, asked and answered. It was one of the first questions.

THE COURT: Yes.

Q Were you working when you married Mr. Jout?

A No.

Q Did you work after you married Mr. Jout?

A No.

Q Am I correct that when Mr. Jout asked you for

a divorce in June of 1975 you said to him "I am not working, who is going to take care of me"?

A Yes, I did.

Q Did you testify on your direct examination that Mr. Chu told you to make up a story as to how you and John Jout had met?

A Yes.

Q This is in connection with your interviews at immigration?

A Yes.

Q And that he had told you to tell immigration that it had been love at first sight?

A Yes.

Q To make up a story?

A Yes.

Q Am I correct that when you were interviewed by Mr. Hittelman Mr. Hittelman would ask you questions and then write out the statement for you, is that right?

A Mr. Hittelman -- excuse me?

Q Did Mr. Hittelman write out the statement for your signature?

A Yes.

Q He would say things and you would say things

and he would write them down?

A Yes.

Q He would say something else, you would say something, he would write that down?

A Yes.

Q He prepared a whole statement?

A Yes.

Q And you read that statement?

A Yes.

Q And you signed it?

A Yes.

Q And you signed that it was full and complete?

A Yes.

Q Am I correct that nowhere in that statement did you tell Mr. Hittelman that Mr. Chu had told you to make up a story about how you and John Jout had met?

A He did tell me.

Q Am I correct that you never told Gary Hittelman that Gene Chu had told you to make up a story about how you met John Jout and to tell immigration that it was love at first sight?

A Yes, I told Hittelman.

Q You told Hittelman that?

A Yes.

Q And that was in the statement that you read and signed?

A Yes.

Q Isn't it correct that what you told Mr. Hittelman was "The day before John and I came to immigration Gene Chu had us come to his office, where he asked us questions like we would be asked at immigration"?

A Yes.

Q Period?

A Yes.

Q Isn't that all you told Mr. Hittelman?

A Yes.

Q I ask you again, did you tell Mr. Hittelman that Eugene Chu had told you and John Jout to make up a story about how you had met and to tell immigration that it was love at first sight?

A Yes, he did.

Q Did you tell Mr. Hittelman that?

A Yes.

Q Did you testify in the grand jury?

A Yes.

Q Did you tell the grand jurors that Gene Chu had told you to make up a story about how you and John Jout met?

jhr5 C. Miranda-cross

A Yes.

Q On your oath, you said that to the grand jury?

A Yes, I did.

MR. FLEMING: Are we going to take any recess before lunch, your Honor?

THE COURT: No. It's 12 o'clock now. We were very late getting started.

MR. FLEMING: All right.

THE COURT: And we have --

MR. FLEMING: It's all right with me.

THE COURT: All right.

Q Do you have a sister named Mildred?

A Yes.

Q Where does she live?

A Right now?

Q Yes.

A I am sorry, I cannot say that.

Q You were in Mr. Chu's office when he received a telephone call?

A Yes.

Q And it was Alice Aviles on the phone?

A Yes.

Q This was in June of1975, is that right?

A Yes.

Q And you spoke to Alice Aviles and then you and somebody ran 20 minutes and met her?

A Yes.

Q Mr. Chu showed up a little while later, you say?

A Yes.

Q You were inside a car?

A Yes.

Q And Mr. Chu was talking to Alice Aviles outside his car up the street?

A Yes.

Q Did you testify that you heard Alice Aviles ask Mr. Chu for $15,000?

A Yes, I did.

Q Did Mr. Chu give her any money at that time?

A No.

Q In fact, you heard Mr. Chu say "What are you doing this for"?

A Yes.

Q As a matter of fact, Alice Aviles had told you, am I correct, that she wanted to get all the girls together and shake down Mr. Chu for 15,000?

A She did not.

jhr7 C. Miranda-cross

Q Did not what?

A Did not tell us that.

Q Tell you what?

A That she wanted to -- she wanted all of us to shake the lawyer.

Q She didn't tell you that?

A No, she didn't.

Q She talk to you about her scheme to shake down the lawyer?

A No, she didn't.

Q She never spoke to you about it?

A No.

Q After this incident where you hear Alice Aviles saying "I want $15,000" and Mr. Chu saying "What are you doing this for," two, three, four weeks later you walked into the immigration service and gave a statement to Mr. Hittelman, right?

A Yes.

Q And they to ! you you won't be prosecuted for anything if you tell the truth?

A Yes.

Q But if you tell a lie you will be prosecuted?

A Yes.

Q Did you tell Mr. Hittelman that Alice Aviles

in June of 1975, on the corner of Delancey, told you to get all the girls together who got married to Chinese guys, to write down exactly how we got married, so that we could blackmail Gene Chu?

A No.

Q You did not say that to Mr. Hittelman

A No.

Q I show you C for identification and I ask you to read from right there to right here.

Does that refresh your recollection that--

A Yes, it does.

Q -- that Alice did tell you that she wanted to get all the girls together to blackmail Gene Chu, that you told Mr. Hittelman that?

A She told me --

5A

lhrl C. Miranda-cross

Q No. Did you tell Mr. Hittelman on July 23, under oath, when he had told you "Tell the truth and you won't be prosecuted," did you tell him that Alice Aviles on Delancey Street told you to get all the girls together to blackmail Gene Chu? Yes or no.

A Yes, I told him that.

MR. FLEMING: I have nothing further, your Honor. May I have one moment to speak to Mr. Sprizzo?

THE COURT: All right.

(At the side bar)

MR. FLEMING: I am finished, your Honor, except I would like a stipulation with Mr. Kingham that at no place in the grand jury testimony did this witness say that Mr. Chu had told her to make up a story as to how she and John Jout met.

MR. KINGHAM: It is clear that it is not in the statement. Ithink that point has been made. I will stipulate that with respect to the grand jury testimony, that the statement to which Mr. Fleming refers was not in the grand jury testim ony.

THE COURT: Do you want me to tell that to the jury or do you want to state the stipulation to the jury yourself?

MR. KINGHAM: I have no objection to either.

MR. FLEMING: Can I state it?

MR. KINGHAM: Mr. Fleming can do it. I have no objection to that. I also will stipulate that it doesn't appear in those words, her statement to Mr. Hittelman. But I think the record is clear that Mr. Fleming said "Is that all you told Mr. Hittelman," and then read her the application portion of her statement --

MR. FLEMING: I am just asking for the grand jury stipulation, because that's the question I asked her. She said it.

MR. KINGHAM: If that's the case, the grand jury testimony would be the only stipulation, your Honor.

(In open court)

MR. FLEMING: Your Honor, I understand that Mr. Kingham is willing to stipulate on behalf of the government that during Miss Miranda's grand jury testimony, she didn't tell the grand jury that Mr. Chu had told her to make up a story to how she and John Jout met.

MR. KINGHAM: I will stipulate to that, your Honor. No problem.

THE COURT: All right. I might tell the jury that where counsel make a stipulation of fact,

lhr3 C. Miranda-cross-redirect

the jury should accept that fact as established. The stipulation dispenses with the necesstiy of any evidence.

Any further cross-examination?

MR. CONCANNON: No questions, your Honor.

MR. BARRY: No questions, your Honor.

MR. KINGHAM: If I may, your Honor, just a brief redirect.

REDIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Miranda, following the meeting at Pitt Street between Mr. Chu and Alice Aviles, at any time after that were you contacted by the police or FBI or any law enforcement officer to question you concerning that incident?

A No, I wasn't.

Q Do you recall being asked questions by Mr. Fleming, the gentleman that just questioned you --

A In my house?

Q No. Let me finish the question.

Do you recall being asked questions just a few minutes ago by Mr. Fleming concerning what Alice Aviles told you on the street, on Pitt Street?

A Yes.

Q Do you recall being asked those questions?

A Yes.

Q Would you tell the Court and jury what it was that Alice Aviles told you at that time?

MR. FLEMING: I object to that. I asked a simple question, your Honor, and I got a simple answer. I object to this. I can explain my objection.

THE COURT: Let me hear the question, please.

(Record read)

THE COURT: The objection is overruled.

MR. FLEMING: May I come to the side bar, your Honor?

(At the side bar)

MR. FLEMING: I asked her if Alice Aviles had said get the girls together to blackmail Mr. Chu. She denied it. Then she admitted having said it to Mr. Hittelman. Her motives are immaterial and I think are highly prejudicial. What she is going to testify to, I don't think there is any factual foundation for Alice Aviles' statement, but what she is going to testify to is a murder that occurred when in fact there was no murder.

Is that right, Mr. Kingham?

MR. KINGHAM: First of all, by way of an offer of proof so the Court knows what to expect the

witness to testify that at that time she was told by Alice Aviles that Alice Aviles was asking the lawyer for money or else she would expose the fact that there was a girl, who will testify in this trial, whom she believed had been bumped off in connection with a marriage scheme.

MR. FLEMING: And she wasn't.

MR. KINGHAM: That's clear. The point, however, is that the jury now has an erroneous impression of the entire conversation that took place on the street, and it seems ot me that Mr. Fleming has been permitted to bring this out by way of hearsay, that is asking if Alice Aviles told the witness. Then I should be allowed under the doctrine of completeness to make it clear to the jury exactly what the entire conversation was between this witness and Alice Aviles.

MR. CONCANNON: Your Honoe, there are other doctrines that come into play here that I think have considerable importance. One is that you are getting involved in discussions about homicide right now. In addition to causing some confusion, it will have a tremendous impact. Whether or not there was a homicide I think is irrelevant.

The fact that it was discussed I think is important, it gives an entirely different character to the case. It suggests, at the very least, that we are talking about violent people. I think that this statement is complete or sufficiently complete so that it cannot really be misunderstood now. The fact is that she admits some discussion with these girls about blackmailing him.

Whether or not it had anything to do with the homicide I think is irrelevant, and I think it is an effort by the Government to bring substantially prejudicial material before the jury without any real purpose to it.

MR. FLEMING: That's the point, your Honor.

MR. SPRIZZO: Why they were trying to blackmail Chu is really irrelevant.

THE COURT: It is relevant only in the sense that if they were trying to blackmail him only in connection with this scheme, it suggests that all of their testimony

is part of the same effort. This is a little different, because they were apparently trying to blackmail him in connection with a reported murder threat.

MR. SPRIZZO: No, that is not what the testimony was.

MR. FLEMING: The motive Aviles gave for getting the girls to gang up on him was that he killed somebody --

MR. SPRIZZO: Once they decided to ask for money, the motives for asking for money are irrelevant.

MR. KINGHAM: It is highly relevant because the defense has injected this in the case by suggesting that all of the evidence in the trial derives from an attempt to blackmail the lawyer, which blackmail was unsuccessful, and that is why we have this trial.

THE COURT: Tell me again what she is expected to say in answer to your pending question.

MR. KINGHAM: She is expected to say that on the street Alice Aviles told her that she was concerned because the airline stewardess, who was Lis Hernandez, about whom there has been some testimony, had disappeared and she thought he had him bumped off, and she was blackmailing Chu for that reason. That is what she is expected to say.

MR. SPRIZZO: There are two things very simply.

First of all, why Alice Aviles was trying to blackmail Chu is irrelevant once they decided to blackmail him. Secondly, Alice Aviles' statement about attributing the death to Chu is totally without any kind of foundation. If that goes in even with a limiting instruction, I do not think the limiting instruction that it is not going in for its truth -- it is still prejudicial, it has no relevance, the jury is bound to take it for its truth.

Even if we assume its tangential relevance, its probative value is outweighed by the prejudice. Once the girls decided they were going to blackmail Chu, once they decided to extract money from him, their motives for doing it are irrelevant.

If they have any tangential relevance, it is totally obliterated by the prejudicial value of the testimony.

THE COURT: Is Alice Aviles going to be a witness in this case?

MR. KINGHAM: No, your Honor. I should make this clear. We have been looking for Alice Aviles constantly throughout. As a matter of fact, most recently, Thursday evening, we had information that she was about to leave the country on a vacation to go find her. She wasn't on the plane that she was supposed to be on. We

have people all over looking for Alice Aviles.

Obviously Alice Aviles might be somebody the defense would want to talk to if they could find her. We cannot find her.

THE COURT: I do not think I should permit this testimony because of its obvious prejudicial effect. I think the Government has been prejudiced a little bit by the suggestion that Alice Aviles may have been attempting to blackmail Gene Chu by threatening to bring out that he was the kingpin of this marriage mill instead of trying to blackmail him with the fact that one of the airline stewardesssos who had participated in the scheme has disappeared apparently due to foul play.

The conclusion that the jury could draw is that this witness' testimony is carrying out the threat that was made to Gene Chu when he refused to pay the blackmail money. I think under the circumstances the only way I can overcome that prejudice is to tell the jury that there is no evidence in the record up to now that this witness went along with any such suggestion.

Would there be any objection to telling them that?

MR. SPRIZZO: Her motive to testify is relevant. The motive for the blackmail is not relevant.

MR. FLEMING: The blackmail was the same, Judge. The blackmail was to go to the INS with the story about Gene Chu. That was the threat. The reason for the threat supposedly is because they thought some girl had been hurt, but the threat was to tell stories about Gene Shu.

THE COURT: One of the stories they were going to tell was that an airline stewardess had disappeared.

MR. SPRIZZO: No. They were going to report him for the marriages.

THE COURT: Then I will say nothing to the jury. I will sustain the objection.

(In open court.)

MR. KINGHAM: If I may, for one second, I will withdraw the question, and I am finished on redirect examination of Miss Miranda.

MR. CONCANNON: No questions.

MR. BARRY: No questions.

THE COURT: Thank you, Miss Miranda, you are excused.

(Witness excused.)

THE COURT: Now we will take our five-minute recess.

(Recess.)

MR. KINGHAM: Your Honor, the Government calls Virginia Miller.

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V I R G I N I A A. M I L L E R , called as a witness by the Government, being first duly sworn, testified as follows:

MR. KINGHAM: May I inquire?

THE COURT: Please.

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Miller, would you speak up so that everyone back here can hear you. Sometimes it's difficult to hear in this courtroom.

How are you employed?

A I am an Immigration examiner for the Immigration & Naturalization Service.

Q How long have you been with the Immigration Service?

A Four years,

Q Are you presently an interviewer in the I-130 program?

A Yes.

Q How long have you been doing that job?

A Since October 15, 1973.

Q From that time to the present how many interviews would you say you conducted?

A Over 2000.

Q Do you generally use the same procedure every time?

A Yes.

Q Is that basically your only duty, to conduct these interviews?

A To adjudicate I-130 petitions.

Q In the process of that do you conduct these interviews?

A Yes.

Q What procedure do you normally follow in connection with a spouse petition?

A Well, I would call in the petitioner United States citizen first. I introduce myself. I tell -- I say "I am Virginia Miller. I am an officer of the Immigration Service. I am going to put you under oath and ask you questions about your husband or wife. The purpose of the interview is to see if you and your husband are living together to see if he is entitled to the benefits that you have applied for."

And if they don't -- if they look confused, if they don't really -- you know, look nervous or confused,

they don't know what the interview is about, I will show them the petition, I will show them their signature on the back, and I will say, "This is your petition. You know, you signed this to file for your husband for his permanent residence. Now, the burden is on you to demonstrate to me that you and your husband are living together in a valid marriage."

And then I put her under oath and I will start asking the questions right then.

Q If the couple has an attorney would the attorney be present in the room during your interview?

A Yes.

Q Is any record kept of the interview which you have with these couples?

A I take notes of what they say.

Q Do you normally take notes during the course of the interview as the people tell you what they are going to say?

A Yes.

(Government's Exhibit 53 was marked for identification.)

xx MR. FLEMING: Just for the record, we have the same objection as we have had previously.

THE COURT: Yes.

MR. FLEMING: I guess I ought to wait Until it's offered. I am sorry.

MR. KINGHA: We have no objection to taking the objection now, your Honor, in anticipation.

THE COURT: All right.

Q Miss Miller, let me show you Government's Exhibit 31 for identification. If you will take that in your hand, do you recognize that document?

A Yes.

Q What is that?

A These are notes I have written.

Q Are those notes of a particular interview?

A Yes.

Q Who are the people whom you interviewed?

A Carmen Miranda and John Jout.

Q Do you recall the date on which you conducted that interview?

A No.

Q Let me show you what .is Government's Exhibit 53 for identification. Does that refresh your recollection as to the date of that interview?

A Yes.

Q Were the notes that you took that are Government's Exhibit 31 for identification notes which you took

during the course of the interview with John Jout and Carmen Miranda?

A Yes.

Q Were they interviewed separately?

A Yes.

Q There appear different color inks on that document, are there not?

A Yes.

Q Which ink reflects whose answers?

A The blue ink is the answers of Carmen Jout, she signed her name and then I started taking notes and what she was saying, and in red are the words of John Jout, only the words where his answers were different from his wife's.

Q Other than the pieces of paper that you have in your hand, that is, Government's Exhibit 31 for identification, do you have any independent recollection as you sit here of what those people told you?

A No.

MR. KINGHAM: Your Honor, Government's Exhibit 31 for identification is offered as Government's 31.

MR. FLEMING: Same objection, your Honor.

THE COURT: All right.

I will instruct the jury again that this exhibit

is being received on the same basis as certain other exhibits that I told you about.

These defendants are not chargeable with acts and statements made by Carmen Miranda and John Jout unless and until the jury shall determine that there was a conspiracy between Carmen Miranda and/or John Jout on the one hand and the respective defendants on the other hand and that the acts or statements were performed or made pursuant to that conspiracy.

(Government's Exhibit 31 was received in in evidence.)

xx Q Miss Miller, with respect to Government's Exhibit 31 now in evidence, which are the notes, with respect to the address of the parties, what address did Carmine Miranda give?

A She said she lived at 95 East 108th Street in Brooklyn.

Q And what address idd John Jout give?

A 959 East 108th Street.

Q With respect to where the couple had met, what information did they give with respect to where they had met?

A Carmen said that she met at Jimmie U's restaurant, the Latin Light, on 42nd Street and Second Avenue, and he

said he met at the same place.

Q Was there any other conversation or questioning about where they had met or where they had lived before, if you recall, from your notes?

A Carmen said that when she met her husband he was living at 32-86 86th Street and he said that he lived at 3249 86th Street. She said he lived alone and he said that he was living with Jimmie Yu in the basement of his house.

Q Was there any questioning or conversation about Jimmie Yu, as reflected on page 2 of the notes?

A Yes. Carmen said that Jimmie Yu lives in Jackson Heights, that he has come to her house in Brooklyn but that she hadn't been to his house since she moved to Brooklyn, but John Jout said that they have been once or twice since they moved to Brooklyn, they have been to JImmie Yu's house, and also that Jimmy Yu came over to their house four or five weeks ago.

Carmen said that she has been back to Jimmie's restaurant since she married with her husband but John Jout said that -- oh, Carmen said she hadn't been back and John Jout said they had been back.

Q With respect to the date of their marriage, August 17, 1973, was there any questioning concerning the

marriage?

A Do you mean about who was there?

Q Yes, about who was present.

A Well, Carmen said that Jimmie Yu was there and that Jean Fong was there and that Jean Fong actec as their witness. Carmen said that Jimmie Yu arranged for their blood test, bringing them to the doctor in Chinatown. John Jout referred to this woman who was their witness, Jean Fong, as his wife's friend.

(Continued on next page.)

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Q Miss Miller, let me show you --

MR. KINGHAM: Let me ask first that this be marked.

(Government's Exhibit 54 was marked for identification)

x

MR. KINGHAM: your Honor, I request that the following testimony be accepted subject to connection at this time. It involves witnesses who have not yet testified in the trial.

THE COURT: All right.

Q Let me show you what has been marked Government's Exhibit 49 for identification, Miss Miller, and ask you if you recognize that.

A Yes, I took these notes also.

Q During which interview did you take those notes?

A This is the interview of Yau Choy Yeung, known as Brian Young, and Irma Cruz.

Q Do you recall what day it was that you took that interview?

A I don't recall.

Q Let me show you Government's 54 for identification.

Does that refresh your recollection as to the

date that you conducted that interview?

A That date is January 8, 1975.

Q Outside of the notes that you hold in your hand, that is, Government's Exhibit 49 for identfication, do you have any independent recollection of what it was that Brian Young and Imgard Cruz said to you on that day?

A No.

MR. KINGHAM: Your Honor, Government's Exhibit 49 for identification offered as Government's 49, subject to connection.

MR. CONCANNON: May I have a brief voir dire, your Honor?

THE COURT: You may.

VOIR DIRE EXAMINATION

BY MR. CONCANNON:

Q Miss Miller, I hand you Government Exhibit 49 for identification. I call your attention to this writing at the very top of the page.

In whose handwriting is that?

A That is my handwriting.

Q When was that placed on that?

A The day of the interview.

MR. FLEMING: We just have the same

objection, your Honor.

THE COURT: All right. This is being received on the basis that I indicated before, that is, subject to the jury finding a conspiracy between the persons who made these statements and the particular defendant in question.

(Government's Exhibit 49 was received in evidence)

THE COURT: And further finding that the statements were made to further the purposes of the conspiracy.

BY MR. KINGHAM:

Q Miss Miller, with respect to Government's Exhibit 49, the notes ofthe interview of Brian Young and Imgard Cruz, first of all, are there any differnet colorings and pencil on these papers?

A The blue ink is the beneficiary, Brian Young, he spoke first,and then in pencil are the discrepancies where his wife was speaking in answering the same questions.

Q With respect to questions about how they met, what responses did the parties give you as to how they had met?

A Brian Young said "I met my wife at my friend's house in September 1973." He said his friend was

Marjie Honidez. He could pronounce her name and so I asked him how he met Marjie and he said "I met Marjie through my friend David Chin."

He said David Chin was a student who went back to Toronto in July '73.

Q What did she say about their meeting?

A Well, first let me tell you that Brian Young said that this Marjie, who was his friend, lives in the same building that he was living at that time with his wife, in Apt. 3J.

Imgard Cruz also said that she met her husband through Marjie, who lives in the same building, but Apt. 6L.

Q Did she also mention David Chin or David Chang?

A Yes, she referred to David Chang.

MR. KINGHAM: I believe that is all the questions I have on this document, your Honor.

MR. FLEMING: May I just have a couple of questions, ifyour Honor please?

THE COURT: All right.

CROSS-EXAMINATION

BY MR. FLEMING:

Q Miss Miller, 31 is the interview of Miranda

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and Jout, Mr. and Mrs. Jout?

A Yes.

Q Did Mrs. Jout tell you that she had gone to live in Jackson Heights with Mr. Jout when she was married? I direct your attention to this right here.

A I can't recall exactly, but I don't think that refers -- I don't think that means that she went to live there. I think she just went there.

Q It reads -- it's in evidence -- "I was living in Brooklyn when I met him. I went to his place when I married on 8/17 in Jackson Heights."

That is what it says.

THE COURT: I am not sure the reporter got that. Read it more distinctly, if you will, please.

Q It reads, am I correct -- I guess this is in your writing --

THE COURT: Why don't you let the witness read it, since it's in her writing.

A It says "I was living in Brooklyn when I met him. I went to his place when I married on 8/17 in Jackson Heights."

Q Up here John Jout says, "I lived in Jackson Heights with Jimmy Yu"?

A That is at the time of the meeting.

Q I see.

One other thing: They also told you he had gone down to North Carolina to look for work?

A Yes.

Q And that he had come back about March 10 from North Caolina?

A Yes. I don't know where the page is.

Q Do you have a recollection of that?

A Yes.

Q And that he would come up from North Caolina from time to time to visit her?

A Yes.

Q 49 is the interview of Brian Young and Imgard Cruz, is that right?

A Yes.

MR. FLEMING: All right. She doesn't have the page I have, your Honor, so I have no other questions.

THE COURT: Any questions from other counsel?

MR. CONCANNON: No, your Honor.

MR. BARRY: No, your Honor.

THE COURT: Any redirect?

MR. KINGHAM: Nothing.

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MR. FLEMING: May I ask just one thing?

BY MR. FLEMING:

Q Do you have a recollection that Mr. Young said that he was working at Cobbs Mill Inn up in Connecticut?

A Yes.

Q And that he would come in on his off day and stay with Mrs. Young?

A As a matter of fact, he told me he was living in the dormitory of the restaurant and he would come in one day a week.

Q On his day off from work he would come in and stay at Mrs. Young'sapartment?

A Yes.

Q Isn't that right?

A That's what he said.

MR. FLEMING: All right.

MR. KINGHAM: I have nothing further.

(Witness excused)

THE COURT: We are going to take our noon break now. We are a little after our usual break time. It is, by my watch, three minutes to 1. So we will come back at 10 minutes after 2.

(Luncheon recess)

AFTERNOON SESSION
2:10 p.m.

(In open court; jury present)

MR. KINGHAM: Your Honor, the government calls Elizabeth Hernandez.

E L I Z A B E T H T E R E S A H E R N A N D E Z ,
called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Hernandez, I ask you to keep your voice up so that you can be heard back here in the courtroom.

Are you also called by the name Lisa?

A Yes, I am.

Q Are you a citizen of the United States?

A Yes, I am.

Q Where were you born?

A New York City, Manhattan.

Q Do you know a man named Jimmy Yu?

A Yes, I do.

Q If you see him in the coutroom, would you point him out?

lhr2 Hernandez-direct

A Yes, he is sitting in the far right end of the table.

MR. KINGHAM: Indicating the defendant Mr. Yu, your Honor.

THE COURT: The record may so reflect.

Q When did you first meet Jimmy Yu?

A I met him in the year of '73 in the Lantern Light Restaurant.

Q Do you recall what month it was?

A It was in the month of September or October.

Q Do you remember where the Lantern Light Restaurant was?

A Yes. I believe it is on 45th and Lexington, Lexington or Third, but it's around 45th, that area.

Q Who was present when you met Jimmy Yu at that time?

A When I met Jimmy, Tracy, myself, Jimmy Yu and Perry was present.

Q Who is Perry?

A Perry is my husband.

Q Who was Tracy?

A Tracy is the young lady who introduced me tothese people and who first introduced the marriage and the entire -- everything that was involved init.

Q How did you come to meet Tracy?

A Through her brother Diego, I met Tracy in his apartment in the Bronx.

Q At the time you met Tracy in Diego's apartment, didyou have a conversation with her?

A With Tracy, yes, I did.

Q What was said?

A Tracy --

MR. FLEMING: May we have an objection, your Honor.

THE COURT: Yes. The jury will not charge any of the defendants with any of these statements unless and until the jury finds a conspiracy with the defendant in question during the course of making the statement, and further finds that the statement was made to further the purposes of the conspiracy.

MR. KINGHAM: Thank you, your Honor.

Q What was the conversation you had withTracy when you met her at Diego's apartment?

A Tracy approached me and asked me if I had wanted to get married. I told her I did, she further went on to explain what was involved in her marriage, that she had received a certain amount of monty, that her husband was paying for her rent, and she believes that if

I do marry I will have the same setup, I will -- my husband will be paying for my rent, probably giving me a certain amount of money were I to marry, and that's about it. I would have to meet a man named Jimmy Yu, and that's it, I believe.

Q Did she tell you the purpose of the marriage?

A Yes. For the man that I marry would be able to get his citizenship.

Q Did you then meet Jimmy Yu at the Lantern Light?

A Yes, I did.

Q When was that in relation to the conversation you had with Tracy?

A I don't recall if it was the same day or the day after, but it had to be between that period.

Q At the time you met Jimmy, was there a conversation with him?

A Yes, there was.

Q What was said?

A Jimmy introduced himself and introduced Perry to me, told me that I -- that he will be the man that I will be marrying, that the marriage will have to be done as soon as possible because the case was coming up, and he went on to tell me that I will be

receiving a certain amount of money for it. We didn't discuss -- go into that particular subject any furtherin reference to the money. He told me that I wuold have nothing to worry about, that they have a lawyer working with them, and just to trust the lawyer, that everything would be all right.

Q What did you say?

I said it was okay, I really didn't say much, really.

Q How long did your meeting with Jimmy and Perry and Tracy take at the Lantern Light?

A About I'd say 45 minutes, 40, 45 minutes. Not long.

Q Did there come a time after that meeting when you met a man named Gene Loy Chu?

A Yes, there was.

Q Do you see Mr. Chu in the courtroom?

A Yes, I do.

Q Would you point him out?

A He is sitting onthe far end of the table on the lefthand side, in the yellow --

MR. KINGHAM: Indicating the defendant Mr. Chu, your Honor.

THE COURT: The record may so reflect.

Q In relation to the meeting with Jimmy Yu, when was it that you first met Gene Chu?

A I believe I met Gene Chu several days after my meeting with Jimmy. I'd say maybe a week after.

Q Where did you meet him?

A In his office, in Jimmy's office -- I am sorry, in the lawyer's office.

Q Do you recall where that office was?

A Yes, 9 Division Street, in Chinatown.

Q How did you come to go there?

A I really don't recall whether he phoned me or whether Jimmy asked me to go. I don't recall.

Q When you went there, who was present besides yourself and the lawyer, Mr. Chu?

A That was it. Just the both of us.

Q Did you have a conversation?

A Yes, we did.

Q What was said?

A Gene Chu asked me, "Well, you are the one that wants to get married?"

I told him I did.

He told me more or less what was involved, that I would have to prove to the agents at the immigration office that it was a real marriage, that they

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will probably be watching us, and when I go -- I will probably have to go to the immigration office, and I will be asked certain questions, and I just have to make them believe that the marriage is real. That was basically it, that -- gee, I just --

Q Do you recall any further conversation at that time?

A No, not right now I don't. It was basically that.

Q Following your meeting with Mr. Chu, did you see Jimmy Yu again?

A Yes, I did. We had to go to City Hall to sign certain papers for our marriage.

Q Was that the next time that you saw Jimmy Yu, if you recall?

A Yes, it is, that I remember.

Q Let me show you what has been marked Government's Exhibit 38 for identification, Miss Hernandez. Would you look at that and tell me if you recognize that?

A Yes, I do.

Q What is that?

A This is the marriage certificate or rather the license for the marriage.

Q Does your signature appear on that?

A Yes, it does.

Q W[illegible] was present when you signed it?

A Myself, Perry, Jimmy Yu and the clerk at the City Hall.

Q Was that over here in the Municipal Building?

A Yes.

Q The big building next to the courthouse?

A Yes, it was.

Q What day, if you [illegible]ow, was it that that was signed?

A The day before my marriage, November 7.

Q 1973?

A Yes.

MR. KINGHAM: Your Honor, Government's Exhibit 38 for identification is offered as Government's Exhibit 38.

MR. SPRIZZO: No objection.

(Government's Exhibit 38 was received in evidence)

Q Miss Hernandez, with respect to Government's Exhibit 38, do you recall who it was that filled this out?

A I believe it was the clerk at City Hall.

Q Down here where it says future address after

marriage, 511 East 80th Street, Apt. 3B, New York, New York, is that where your apartment was at that time?

A Yes, it is.

Q Who lived there with you at that time?

A At that time I lived -- I had a roommate. Her name is Digna Gonzalez. I lived with her.

Q Miss Hernandez, at the time you signed that application at City Hall, did you have any conversation with Jimmy Yu?

A I believe I did. It was in reference -- we had several -- we talked that day, but we discussed the money that I would be receiving.

Q What did he say?

A I would be receiving -- I would be receiving $1000 cash on the day of my marriage, and I believe it was 250, $250 every month after that. The total I think, if I remember correctly, was $3500.

Q Who told you that?

A Jimmy. Jimmy Yu.

Q On November 8, 1973, did you marry Perry Chang?

A Yes, I did.

Q Where did you marry him?

A In the True Light Church in Chinatwon.

Q Who was present?

A Myself, Perry, Jimmy Yu, the minister and Jimmy's sister.

MR. KINGHAM: your Honor, Government's Exhibit 39 for identification offered as Government's Exhibit 39, the original document.

MR. SPRIZZO: No objection.

(Government's Exhibit 39 was received in evidence)

MR. KINGHAM: Your Honor, may I read from Government's Exhibit 39?

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 39 in evidence to the jury)

Q You married Perry Chang and not Jimmy Yu, is that correct?

A That is correct.

Q Was Jimmy Yu present?

A Yes.

Q At the time of your wedding at the True Light Church, did you have any conversation with Jimmy Yu?

A I did have conversation with him. Exactly what was said, I don't really recall. We were taking pictures and a certain amount of money was given to me.

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Q How much money was given to you?

A $1000 cash.

Q Who gave it to you?

A If I remember correctly, Jimmy gave it to me, but I don't remember.

Q Where was it that he gave it to you?

A Outside of the church.

Q Did you sign any papers that day?

A Yes, I did.

Q Where?

A It was in the church, in a certain part of the church. There weren't people around, just Jimmy and myself.

Q Who gave you the papers to sign?

A Jimmy Yu did.

Q After your wedding at the True Light Church, where did you go?

A I went to the airport. I had to go to the airport.

Q Who went with you?

A I went by myself.

Q Where were you working at that time?

A I was working for American Airlines.

Q What was your job?

A Flight attendant.

Q Where were you living at that time?

A 511 East 80th, New York.

Q After your wedding, did you have occasion to see Tracy?

A Yes, I did see Tracy.

Q When was that and where did you see her?

A I saw Tracy, it had to be around two or three days after my marriage. I met her on 14th Street. I have her $300.

Q On the day of your wedding, did you see Gene Loy Chu?

A No, I did not.

Q Let me show you, Miss Hernandez, what has been marked Government's Exhibit 32-B for identification. Would you look at that document, both sides, please.

Does your signature appear on that document?

A Yes, it does.

Q Does that appear to be your signature?

A Yes, it does.

Q Do you recall when and where you signed that document?

A I do not.

MR. KINGHAM: Your Honor, the Government would offer into evidence Government's Exhibit 32 A through 32-G for identification, authenticated by means of the stipulation.

MR. CONCANNON: Your Honor, my only objection would be the connecting problem --

THE COURT: Some of those, I believe, were signed by one of the defendants, are they not?

MR. KINGHAM: By the defendant Chu, your Honor, but not the other two defendants.

THE COURT: I might say to the jury in that connection that where a document is signed by one of the defendants, the other defendants are not chargeable with that, unless and until the jury finds that there is a conspiracy between the defendants and that the paper was signed in furtherance of the objectives of the conspiracy.

(Government's Exhibits 32-A through 32-G, inclusive, were received in evidence.)

xx MR. KINGHAM: Your Honor, may I read from Government's Exhibit 32-A?

THE COURT: Yes.

MR. KINGHAM: I believe the stipulation is that Government's Exhibit 32-A and its contents were received by the Immigration Service and bear the signature -- 32-A bears the signature of Gene Loy Chu.

(Mr. Kingham read from Government's Exhibit 32-A in evidence to the jury.)

BY MR. KINGHAM:

Q Calling your attention to Government's Exhbit 32-B in evidence and the information that appears hereon which says, "Last address at which you and your spouse resided together in New York, New York, USA, Apartment 3-B,

511 East 80th Street, from November, 1973 to the present," at that time did you live with Perry Chang at that address?

A No, I did not.

Q Calling your attention to Block 22:

"Address at which beneficiary, " Perry Chang, "is presently residing, 511 East 80th Street," in November of 1973 did he reside at that address with you?

A No, he did not.

Q Calling your attention to the date of signature, 8 November, 1973, on that day did you appear before Gene Loy Chu to sign this document?

A I did not, no.

Q Following the day of your wedding, November 8, 1973, did you have occasion to see Mr. Chu again?

A Yes, I did see Mr. Chu.

Q Do you recall how long it was before you saw him again?

A Around a month later.

Q Did you have a conversation with him?

A Yes.

Q What did he say?

A Mr. Chu told me that Perry will have to move into my apartment as soon as possible, he would have to

move his clothes, and everything, in. He asked me if I was living with anyone at the present time, and I told him yes, I was living with Digna Gonzalez.

He wanted to know if I had any visitors or if I was seeing anyone because of the fact that he wanted the marriage to look as real as possible. He wanted the doorman to my building to see Perry go in and out of my building, and my neighbors to see him so there would be no question as to my being married or rather my marriage being real.

Q What did you say to him about that?

A I told him that I did not want Perry to move in. If it had to be done, could he just move his clothes in but not he himself move in, and he told me that that could not be done because, let's say the agents may come to visit me at four, five in the morning, and if they do not see Perry in my apartment a that hour, they will then know that something is going on.

He told me to trust him, to please trust him, that he has been doing this sort of thing for over ten years, and that he has never had any problem with it, so he just wants me to give him all his trust, that he would not turn his back on me and get me in trouble.

Q What did you say?

A I didn't really say muc... He told me -- yes, that was it.

Q Let me show you what has been marked Government's Exhibit 34 for identification, Miss Hernandez.

Would you look at that, please? Tell me if you have ever seen that or a copy of that before?

A Yes, I received this in the mail.

Q Do you recall when it was that you received it?

A It was in the summer of '73.

Q '73 or '74?

A No, '74, I am sorry, '74.

MR. KINGHAM: Your Honor, Government's Exhibit 34 for identification, offered as Government's Exhibit 34, again was the subject of a stipulation.

MR. SPRIZZO: No objection.

(Government's Exhibit 34 was received in evidence.)

xx Q Miss Hernandez, after you received the notice in the summer of 1974, what did you do?

A I went to see Gene Chu.

Q Did you go alone?

A Yes, I did go alone, I believe I did. I am not sure if Perry was present at that meeting, but I did go to see him.

Q Was there a conversation?

A Yes. I showed the form to him and he told me that since he felt we were not ready to go to Immigration, he was going to write or phone the Immigration office and ask for a later date so we can have our meeting at a later date, because he didn't feel Perry and I were ready to be asked the questions.

Q Do you recall any other conversation?

A No, because at that particular meeting he was a little upset with us, Perry and myself.

Q What did he say?

A He knew that Perry had not -- was not really living with me on an every-day basis, and --

MR. FLEMING: The question is what did Mr. Chu say. I ask that be struck.

I ask for a mistrial on the basis that this is the third occasion on which we have had a witness guess what is in Mr. Chu's mind --

THE COURT: I am tellin the jury to disregard the witness' statement as to what Mr. Chu knew or did not know. She obviously cannot read Mr. Chu's mind.

Please confine yourself to what you said and did and what he said and did.

THE WITNESS: Okay.

Q What did Mr. Chu say?

A Mr. Chu asked me if Perry was living with me on an every-day basis. I told him he was not, Perry was not living with me. Perry I believe had moved at that time most of his clothes into my apartment.

Gene Chu again reminded me of the importance of this. He told me that I would have everything to lose if I did not go along with him, if I did not put every -- if I did not have Perry move in with me. He told me I would have everything to lose, and, of course, Perry would be deported.

He wanted to come to my apartment and drill both of us on the -- on my apartment, on what Perry knows of my apartment, on what he knows of me and of what I know of him, so that it was left at that.

Q Did he say that to you?

A Yes.

Q Was there any discussion about your personal life at that time?

A No, not at that particular meeting.

Q Did you ever have such a discussion with Mr. Chu?

A Yes, I did.

Q When was that?

A That was, gee, a couple of months after my marriage, I'd say around three, two or three months after my marriage.

Q Where did that discussion take place?

A It took place in Mr. Chu's office.

Q Who was present?

A Mr. Chu and myself.

Q What was said?

A Mr. Chu asked me if I was a homosexual. I told him I was.

He asked me if any of my friends would object to Perry living at my apartment. I answered him that none of my friends lived with me or were living with me at the time.

He was interested in meeting my friends, and I really -- my mind is a blank. I really can't remember what else happened at that meeting.

MR. FLEMING: Your Honor, may I read from Government's Exhibit 34?

THE COURT: You may.

(Mr. Kingham read ffom Government's Exhibit 34 in evidence to the jury.)

Q Miss Hernandez, did there come a time when Mr. Chu came to your apartment?

A Yes.

Q Do you recall when that was in relation to your discussing the notice with him?

A I believe it was after we received the notice.

Q Who was present at the apartment when he came?

A When he came into my apartment, Perry had been there, and my roommate, Hazel Hernandez, was there -- she was just leaving -- and Mr. Chu -- as Mr. Chu was entering the apartment; just the three of us.

Q Was there a conversation?

A Yes, there was.

Q What took place; what was said?

A Gene Chu took Perry around the apartment and asked him where certain things were located. For example, where the light switch in the bedroom was located, what color my curtains were in the living room, questions like that.

He sat down at my table and we had written down on a slip of paper information about each of us, in reference to our family and our background, so I can get to know more about my husband, and so Perry can get to know more about me.

Gene was upset with us. He told us that he knew that Perry was not living with us -- with me, he knew that we were not living together and he wanted us to move in -- he wanted Perry to move in and he was gong to give us -- I believe it was a week or two, and then he was going to drill us again. He was going to work with us so we could really get all our information.

Q How long did that meeting last at the apartment?

A I'd say an hour or less.

Q What happened after the meeting was over?

A After the meeting was over, Gene Shu left and so did Perry: they both left.

Q Did they leave at the same time?

A Yes. I believe it was the same time.

Q After that did Perry move in?

A Perry had moved his clothes in. He did not move in. He stayed at my apartment, I'd say, two days out of the week. Every time I was home from an airline trip he would stay at the apartment.

Q During the period that he stayed at the apartment, who else lived there, if anyone?

A Well, while he was staying there, I had a friend named Barbara Harris, she was living with me at the latter time.

Q Let me call your attention -- first of all, let me show you this, Government's Exhibit 35 for identification, and ask you if you have seen that or a copy of that before?

A No.

Q Do you recall having seen that or any copy of that report?

A No, I have not seen that.

Q Calling your attention to September, 1974, did you see Gene Chu during that month?

A Yes, I did.

Q Do you recall where you saw him?

A I saw Gene Chu at his office.

Q Do you recall what part of the month it was in?

A Yes. It had to be the second week of the month.

Q Who was present?

A I was present and Gene Chu. Later on in the meeting Jimmie Yu came in and and so did Perry.

Q Before Jimmie Yu and Perry arrived did you have a conversation with Gene Chu?

A Yes, I did.

Q What was said?

A I told Mr. Chu that I did not want to go through

with the marriage, I did not want to go to Immigration. I told him that I felt it was not going to work. I told Mr. Chu that I would give Perry the money that he had given me to that point -- to date, but I just did not want to go through with it. And he --

Q What did he say?

A Mr. Chu told me that it was pretty late for me to make a decision like that, and he asked me to reconsider. And I didn't. I wouldn't. So --

Q What happened when Jimmie and Perry arrived?

A When they arrived, Jimmie Yu told -- Gene Chu told Jimmie Yu just exactly what I had decided.

Jimmie wanted me to reconsider.

Q Did he tell you that?

A Yes. Jimmie told me to please think it over, think about it again.

He told me that I was upset and after I go home and have a good night's sleep maybe I'll feel better in the morning.

He did not want to take no for an answer.

Q Did you have a conversation with Perry at that time?

A Yes, I did.

Q What happened?

A 668

A Perry and I left the office. He wanted to speak to me. We went outside and he asked me, am I sure that I am not going to go thro n with this. I told him that I was, I don't want any part of it any more.

He told me, "Please, I don't want you to get hurt," more or less it was those words, and I told him not to threaten me because I don't -- I am not going to go through with it. That was it.

We went back into the office and we left.

Q Did you go home that night?

A Yes. Jimmie Yu drove me home. He stopped off and bought me some tranquilizers and some Chinese food, and then he took me home.

Q After you went home that night, did you have a conversation with Perry again?

A Yes. It was the following day.

Q What was said?

A Perry asked me if I had reconsidered, or, rather, if I had changed my mind. I told him no, I still was not going to go through with it.

Again he told me that I could be hurt if I do not go through with this and I again told him not to threaten me, and that was it.

Q Was this conversation in person or on the tele-

phone?

A This was on the phone.

Q After that did you have a conversation with Mr. Chu?

A Yes.

Q When was that in relation to your conversation with Perry?

A My conversation with Gene Chu was around a week later, after my phone conversation with Perry.

Q What did you say to Mr. Chu and what did he say to you?

A Well, several things had happened that week, and my apartment had been broken into and I told Gene Chu this, and I told him what Perry had told me about in reference to my -- to him threatening me, and Gene Chu told me that he would not be surprised if Perry would say that or do something like that because people from that part of China are known to have gang fights and gang wars; they are very vicious.

(Continued on next page.)

Q What did you say?

A They do not like to be crossed.

And I believe I told him -- I really don't remember exactly what I told him.

Q Did he say anything else?

A Yes, he told me to reconsider again if I didn't want anything, anything to happen, I could prevent it by trying to go through with it again. To go through with immigration.

MR. SPRIZZO: Can I have the last answer read back.

THE COURT: Excuse me?

MR. SPRIZZO: I didn't get that last part of the answer.

(Record read)

BY MR. KINGHAM:

Q Miss Hernandez, were you eventually interviewed by immigration with Perry?

A No, I was not.

Q After your conversation with Mr. Chu on the phone did you subsequently leave New York?

A Yes, I did.

Q Where did you go?

A To Puerto Rico.

Q Do you recall when it was that you went there?

A The first week in October.

Q While you were there did you have occasion to speak with Mr. Chu?

A Yes.

Q In person or on the telephone?

A It was on the telephone.

Q Who called who?

A I phoned Mr. Chu.

Q How did you come to phone him?

A Mr. Chu wanted to get in touch with me. I do not recall if it was a letter he sent me or by word of mouth. I don't know if he told my roommate that he wanted to see me. I do not recall now, but I received a message that Gene Chu wanted to speak to me, that it was very important.

Q Do you recall when it was that you called him?

A Yes. If I remember correctly, it was in December.

Q Of what year?

A '74.

Q What did you say to each other on the telephone?

A Mr. Chu was coming down to Puerto Rico,or,

rather, to one of the islands for a divorce, and he was passing by Puerto Rico and he was going to arrive around 3 in the morning and he had to catch a flight at 7, and he wanted me to get a hotel room at the airport and he asked me to meet him at the room and wait for him.

He wanted to speak to me in reference to this. He knew that the --

Q What did he say --

MR. SPRIZZO: I object to that,your Honor.

Q Tell us what he said to you.

A Okay.

THE COURT: The jury will disregard any testimony about why Mr. Chu did anything.

Q Please tell us what he said.

A Okay. Mr. Chu asked me to please meet him at the airport hotel because he felt, and he told me this, he felt that the immigration officers were watching him and they will soon be getting in touch with me and he wanted our stories to corroborate with each other. So therefore, he wanted me to meet him so we can just discuss what we would tell the officers when we see them.

Q What did you say?

bsr4 Hernandez-direct

A I told him fine, that I would meet him.

Q Did you in fact meet him?

A No, I didn't.

Q Did you make the hotel reservation?

A No, I didn't.

Q Was that your last personal contact with Gene Chu?

A Yes.

Q Do you know a woman named Alice Aviles?

A No, I don't.

MR. KINGHAM: Your Honor, at this time I would offer into evidence Government's Exhibits 35, 36, 37 for identification as Government's 35, 36 and 37, respectively, subject to stipulation.

MR. SPRIZZO: No objection.

MR. CONCANNON: Just the connecting problem, Judge.

THE COURT: Yes.

(Government's Exhibits 35, 36 and 37 were received in evidence)

THE COURT: Same instruction as to this exhibit as with the other exhibits.

No, I don't believe it applies here. This is just a notice to appear for a hearing.

MR. KINGHAM: Also statements at the bottom, your Honor, of the document.

THE COURT: Well, yes. There is apparently a statement made by Mr. Chu.

That will not be chargeable against the other defendants unless and until a conspiracy is shown.

MR. KINGHAM: Your Honor, if I may, I believe the stipulation as to these documents is as it was with respect to Government's 34, that is, that these documents were received by the immigration service at the date and time stamped on the top and bear the signature of Mr. Chu, written by him.

May I read from these documents?

THE COURT: You may.

(Mr. Kingham read from Government's Exhibits 35, 36 and 37 in evidence to the jury)

BY MR. KINGHAM:

Q Miss Hernandez, have any promises been made to you in connection with your testimony here today?

A Yes.

Q What is that?

A That I would not be prosecuted.

Q Are there any exceptions to that promise, if

you know?

A Yes. As long as I tell the truth of everything I remember as best as I can recall.

Q And are you subject to prosecution for perjury if you do not tell the truth?

A Right.

Q Prior to this trial, in August, 1975, were you interviewed by immigration agents in Puerto Rico?

A Yes, I was.

Q Did you tell the truth to them?

A On my first statement I didn't.

Q Did you give a second statement?

A Yes, I did.

Q Was the second statement the truth?

A Yes, it was.

MR. KINGHAM: I have no further questions, your Honor.

CROSS-EXAMINATION

BY MR. SPRIZZO:

Q Miss Hernandez, when did you say you met the defendant Chu for the first time?

A Gene Chu?

Q Yes.

A Prior to my marriage. I'd say a week before.

Q How long before?

A I believe a week. I am not very sure.

Q I believe you testified in response to Mr. Kingham's question that the first time you appeared before the immigration and naturalization service you told some lies, is that correct?

A Excuse me.

Q The first time you appeared and you spoke to Mr. Hittelman, you didn't tell the truth. I --

MR. KINGHAM: I object, your Honor. There is no evidence thatit was Mr. Hittelman.

Q Well, the immigration inspector who spoke to you.

MR. SPRIZZO: I accept your correction.

A Yes, that is correct.

Q You didn't tell him the truth?

A Right.

Q Were you under oath?

A Yes, I was.

Q And I believe your testimony was the second time you saw -- spoke to the immigration person, whoever he was, you told him the truth?

bsr8 Hernandez-cross

A I did.

Q Did you tell him that you had met Mr. Chu before you were married?

A I do not recall.

Q Maybe I can refresh your recollection. Did you tell the immigration man the following --

MR. KINGHAM: Objection, your Honor.

MR. SPRIZZO: I will show it to her.

Q Isn't it a fact that you told the immigration man on August 15, 1975 that you didn't meet Gene Chu until after you were married?

A Yes. It is true.

Q In fact, it was several days, according to your testimony, after your marriage, is that correct?

A Yes, that is correct.

Q Is that your answer? Did you tell him that?

A I did say that.

Q In fact, in your statement you told the immigration man that you didn't meet Mr. Chu until after you got back from Puerto Rico, is that correct?

A At the time that I recalled, that was -- when I had the meeting with the officer, that was what I remembered at that time.

Q In other words, you were telling the truth then, right?

A To me it was the truth, yes.

Q You just didn't remember?

A Correct.

Q When you appeared before the grand jury -- do you remember appearing before the grand jury?

A Yes, I do.

Q Do you remember when that was?

A It was -- I don't remember the exact dates, no.

Q What time of the year was it?

A It was last year. I really don't remember

the exact time.

Q Do you recall the month?

A No, I do not.

Q That was after some of the events about which you have testified as to dates, is that correct? You don't remember the month?

A I don't remember the exact month. I came to New York.

Q Would it refresh your recollection if I told you that it was on or about October 2, 1975?

A Yes, okay.

QDoes that refresh your recollection?

A Yes, yes.

Q Were you asked these questions before the grand jury in October of 1975 and did you give these answers:

"Q Did there come a time when you met a lawyer?

"A Yes, I did meet a lawyer.

"Q Was that after your marriage?

"A After the marriage.

"Q How soon after?

"A It was around three days after my marriage."

Did you give that testimony before the grand jury?

A Yes, I did.

Q Were you undre oath?

A Yes, I did.

Q And it slipped your mind again?

A That's correct.

Q When did you first remember it?

A I would say around a week ago, as I was preparing for the trying.

Q When you were in Mr. Kingham's office?

A No, in my home, in my apartment.

Q It just came to you?

A That's correct.

Q You hadn't remembered it for over almost a year, is that correct?

A That's true.

Q Do I understand your testimony to be that your introduction to this marriage came from your friend Tracy?

A Yes, right.

Q It didn't come from Mr. Chu, did it?

A No.

Q When was the last time you spoke to Mr. Chu?

A The last time I spoke to Mr. Chu was in Puerto Rico, '75, the year '75.

lhr4 Hernandez-cross

Q In '75 or in '74?

A '74, I am sorry.

Q Was that the conversation you testified to on direct examination?

A Right.

Q On the phone?

A Exactly.

Q You gave some testimony under oath about that conversation on August 15, 1975, did you not?

A I believe I did.

Q You said that Mr. Chu told you all these things on the phone about your stories coinciding?

A Yes.

Q Were you asked this question and did you give this answer:

"Q Have you heard from any of these people again?

"A Just the lawyer. He got in touch with me. No, I'm wrong. He got in touch with my friend Barbara and told her that he was passing through Puerto Rico and wanted to see me. I called him in New York. He didn't want to speak on the phone, so I didn't meet him. I was afraid it was a trap."

Did you tell the grand jury anything at all about this conversation in Puerto Rico on August 15, 1975?

A I really don't recall --

Q Would you like to look at the statement?

A Yes. May I? Where is that?

(Pause)

A (Continuing) I neglected to say exactly that I had gotten in touch with him.

Q It slipped your mind again?

A Yes. It had to, if I dind't say it there, obviously it did.

Q Do you recall being asked the final question by the immigration inspector or agent, whoever it was:

"Q Do you have anything that you want to add to the statement?

"A I mentioned that Perry threatened my life outside the lawyer's office, but I want to add that he threatened my life several times. He also said that he was going to hurt me," etc.

Did you say anything in response to that --

MR. KINGHAM: Objection to "etc., etc."

Q "Or he may have some others hurt me if I didn't go through."

You were given the opportunity, were you not, to add to your statement?

MR. KINGHAM: Objection, your Honor. The

witness hasn't been allowed to answer the question --

THE COURT: I don't know what the question is.

Q The question is, were you allowed at the end of that statement to add anything that you wanted to the statement you had given, did they give you that opportunity?

A Yes, they did.

Q You mentioned nothing about this conversation with Mr. Chu in Puerto Rico?

A Sir, I mentioned what I remembered at the time.

Q Your recollection, I take it, has been refreshed?

A I have been preparing for this trial for the past few weeks, so therefore I have been remembering and thinking about it.

Q Prepared by Mr. Kingham?

THE COURT: Excuse me. Finish the answer.

THE WITNESS: When all of this was taking place, I had blocked everything out of my mind. I wouldn't even remember the day I was married, until recently, I was being prepared for this trial, I had no choice but to remember. That is all I was thinking about.

Q I don't doubt you had no choice but to remember, but were you prepared --

MR. KINGHAM: I object, your Honor.

MR. SPRIZZO: Her words, your Honor, not mine.

THE COURT: Confine yourself to questions and not comments.

Q Were you prepared for your testimony by Mr. Kingham?

A No, I was not -- oh, I am sorry. I don't understand the question.

Q This gentleman here.

A I really don't understand what you mean.

Q You say you were being prepared for your testimony. Who attended these preparation sessions?

A No, I am sorry, I was being prepared for the trial, just preparing myself for the trial.

Q In other words, you didn't sit down with Mr. Kingham and Mr. Hittelman in this building and go over your testimony?

A I didn't say that. Those were not my words.

Q Did you sit down with Mr. Kingham and Mr. Hittelman and go over your testimony?

A I sat down with Mr. Kingham and Mr. Hittelman

and discussed what had happened in the year '73 and '74.

Q Did they go through your court testimony you were expected to give at this trial?

A No, just what had happened, the truth, everything that I remembered to date.

Q Did they ask you questions?

A Yes.

Q Did they try to refresh your recollection?

A Yes.

Q Did they on occasion refresh your recollection?

A They did.

Q How many times were you in Mr. Kingham's office?

A I'd say three or four times.

Q How many hours did you spend?

A Gee, maybe an hour or two. Around two.

Q Did they let you look at your prior statements?

A Yes.

Q Did you go over them?

A Yes, I did.

Q Mr. Kingham is the man who told you that if you told the truth you wouldn't be prosecuted, correct?

A That is correct.

Q Did he tell you who would make the decision as to whether you were telling the truth or not?

A No. The jury, I believe. I am not sure.

Q Do you know whether or not the jury has the power to indict you?

A I really am not sure. I really can't answer that.

Q Did you testify on direct examination that you gave Tracy $200?

A Direct examination, I do not -- could you explain --

Q When Mr. Kingham examined you, did you or did you not testify that you gave Tracy $200?

THE COURT: I thought she said $300.

Q Or $300.

A Yes, $300.

Q Isn'tit a fact that when you first appeared before the immigration service on August 14, 1975, you denied giving Tracy any money?

A In my first statement I did not tell the truth, so therefore I did deny that I had given her any money.

Q In other words, you lief to them about giving money to Tracy?

lhrl0 Hernandez-cross

A I repeat, my first statement was untrue.

Q You lied? Don't hide from the word. You lied, is that correct?

MR. KINGHAM: Objection.

THE COURT: She said she made an untrue statement.

Q It was deliberately untrue, was it not?

A It was.

Q That's a lie, isn't it?

MR. KINGHAM: I object, your Honor.

THE COURT: That's enough.

Q You were interviewed first on August 14, 1975, is that correct?

A Yes.

Q On that occasion you say you didn't tell the truth, is that correct?

A Are you referring to my first statement?

Q Your first statement.

A If it's my first statement, it's true, I didn't tell the truth.

Q Then on August 15, according to your testimony, you came in and said you were going to tell the truth, is that right?

A No, that is not right. I phoned the agent

and I told him that I would tell the truth. I came in the following day.

Q Did you consult with a lawyer between August 14 and August 15, 1975?

A I didn't.

Q Did you consult with anyone?

A Yes.

Q Who did you talk to?

A With my sister and my friend Barbara Harris.

Q As a matter of fact, Barbara Harris appeared with you on August 15, 1975, did she not?

A Yes, she did.

Q Do you recall being asked this question on August 15, 1975, which is the day that you say you decided to tell the truth:

"Q" Referring to Mr. Chu, "Did he say that he would tutor you on what to tell the immigration officers?

"A Yes, he told me that he would tell me the questions that the immigration officers would ask me and that he was just going to be with Perry and myself so that we could go through the procedures. He said he wouldn't teach me the answers because the questions would be about myself, my apartment and Perry's history,

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there was no more talk about money," etc., etc.

Did you give that answer?

A Yes.

Q Did you say anything about Mr. Chu telling you what to say at the immigration and naturalization service?

A Excuse me?

Q Did you tell the immigration and naturalization service on August 15, 1975 that Mr. Chu told you what to say?

A I really don't recall. I gave the statement as best as I can remember. What I told after August 15 was the truth until today, as best as I can recall.

Q And on August 15 when you said you told the truth, you said Mr. Chu said he wouldn't teach you the answers, did you not say that?

A If it is in my statement, I said it.

Q Was that the truth?

A Yes.

Q Did Mr. Chu at any point in your association with him believe that Mr. Perry Yang -- is it Perry Chang?

A Chang.

Q That Perry Chang was living with you?

MR. KINGHAM: Objection to what Mr. Chu believed, your Honor.

MR. SPRIZZO: She testified to what she told him.

Q Is it your testimony that --

MR. KINGHAM: There is an objection.

MR. SPRIZZO: I will rephrase the question.

Q Is it your testimony that through this entire period that you were dealing with Mr. Chu that you told him from the very beginning that Perry was not living with you, is that your testimony?

A In the beginning, he knew that Perry was not living with me.

Q From the very beginning, is that correct?

A Yes, I believe it is.

Q Did you give this statement to the Immigration Service on August 15, 1975, the day when you say you told the truth:

"The lawyer called me and he wanted to see me to see how everything was going. He figured Perry and I were living together and that everything was going smoothly, because he would try to get in touch with Perry and Perry would hardly ever go."

Did you make that statement?

A Yes, that's correct.

Q Was that under oath?

A Yes.

Q Was it true?

A Yes. We had told the lawyer --

Q No, you answered my question.

A Oh, all right.

Q He can conduct his own redirect examination.

You gave some testimony on direct examination, as I recall, about a threat that you say was made to you by Perry; is that correct?

A Yes.

Q And you say you went home and you never told Chu about that for a while; is that correct?

A I do not recall speaking to him right away. I really don't remember if I did.

Q You just kept it to yourself? Did you tell anyone else about it?

A I don't think anyone knew. I really don't think so.

Q Then you got another telephone call, is that correct, the next day, from Perry? He said again that you might get hurt, is that true?

A Yes.

Q Then I think your testimony was you didn't tell Mr. Chu about that for about a week; is that correct?

A I may have spoken to him, but I really do not remember speaking to him until around a week later.

Q Excuse me?

A I may have told him prior to my statement.

Q But your testimony on direct examination was it was about a week; is that correct?

A Yes, as I can remember.

Q Do you recall being asked questions and giving some testimony about that conversation which you say you had with Mr. Chu when you appeared before the Immigration Service on August 15, 1975?

A Yes, I believe I did.

Q Did you give this answer in discussing that conversation:

"Getting back to that day that I went to the lawyer and told him that Perry had threatened me, I believe the lawyer, because he was also Chinese and he knew how these people were so, my nerves were shot,"

et cetera, did you tell anything at all about -- on that

A 6[illegible]

occasion -- Gene Chu saying to you:

"You better go down there if you don't want to get hurt," as you testified on direct examination?

A I did not think it was important, really important, at that time, until it was brought to my attention of the importance.

Q If you will be so kind, Miss Hernandez, would you answer my question? You did not say that; is that correct?

A At the time I did not say it.

Q You didn't think it was important?

A Correct.

Q Now you think it is important so you are mentioning it on your direct examination; is that correct?

A I was told it is important, everything I could remember is --

Q Who told you it was important?

A Mr. Kingham has told me to -- everything that I can remember.

Q Mr. Kingham told you it was important; is that correct?

MR. KINGHAM: Objection, your Honor. That is not the testimony.

MR. SPRIZZO: She said, "They told me it was

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important."

THE COURT: Did or did not Mr. Kingham say that it was important for you to say you had been threatened or did he merely say it was important for you to tell everything you know?

THE WITNESS: He told me that it was important to say everything that I recall.

THE COURT: Did he specifically say that it is important that you were threatened?

THE WITNESS: I don't remember if exactly that statement was what he said was important to tell. I really don't remember if it's that exact statement, but he did tell me everything, to be honest.

MR. SPRIZZO: I will go to another topic. I think we have her answer.

Q When you got married, did you have a wedding celebration?

A Yes.

Q You went to the Hawaii Kai?

A Yes.

Q Have a nice dinner?

A Very nice.

Q Took some pictures?

A I don't recall.

Q Am I correct that you did not speak to or have any contact with Gene Chu from December, 1974 until the time you first appeared before the Immigration Service on August 14, 1975?

A Could you repeat the dates?

THE COURT: Reread the question please.

MR. SPRIZZO: I will rephrase the question.

Q Am I correct that you did not speak to or have any contact with Gene Chu from December, 1974 when you say you had this conversation in Puerto Rico until August 14, 1975 when you first appeared before the Immigration & Naturalization Service?

A That's correct. I did not have any personal contact with him.

Q Did you ever tell him you were going to appear before the Immigration and give a statement?

A No, I did not. Not that I remember. I never --

Q Did you ever call him up and say, "Well, let's get our stories straight, Gene"?

A Just in Puerto Rico --

Q No, after that call.

A No, not after that call.

Q When you got the notice, did you get a subpoena

to appear?

A Yes.

Q When you got your subpoena to appear, did you get on the telephone and call Mr. Chu and say, "What am I supposed to say at the Immigration Service tomorrow?"

A I don't believe I did.

Q You did not: is that correct?

A No. I don't remember calling him.

Q You had no contact with him whatsoever; is that correct?

A That's correct.

Q And then you appeared and you told your lies, is that correct, on August 14?

A No, it is not correct.

MR. KINGHAM: I didn't hear the answer.

THE COURT: She said that is not correct.

Q You did appear on August 14 and told, as you say, untruths; is that correct?

A Are you -- excuse me. Are you speaking about the statement I gave in Puerto Rico?

Q Right.

A My first statement?

Q Right. August 14, 1975.

A Okay, okay, I am sorry. I got a little

confused. That was the first statement I gave, was untrue, correct.

Q You didn't talk to Mr. Chu about that testimony, as I understand your testimony, because you didn't talk to Mr. Chu since December. Did you talk to anyone else prior to the time that you appeared on August 14, 1975 about your testimony on that date?

A Oh, yes. I had spoken to my sister and Barbara Harris, but that's --

Q Did you talk to Barbara Harris?

A Yes, I believe we did speak on that.

Q Did you tell her how you were going to answer the questions on August 14, 1975?

A No, I did not tell her how I was going to answer them. I did not know what I was going to be asked. How could I --

Q Did you discuss what you might be asked?

A We discussed more or less what was going to be involved in this meeting.

Q Did you discuss that you might be asked about your marriage to Chang?

A Yes.

Q Did you discuss with him what you were going to say on August 14, 1975?

A August 15 or August 14?

Q August 14.

A Yes, I discussed with her what I felt I should say.

Q Did you tell her you were going to say that you met Perry in the Lantern Light bar through Jimmie Yu; is that correct?

A That's correct.

Q And that you were going to say that you got to like him, he is a nice fellow, isn't that accurate?

A Yes.

Q And you discussed with them that you were going to say that you fell in love with him, isn't that correct?

A I did not discuss every detail with her.

Q Did you discuss it in substance?

A More or less, not really -- not everything, no.

Q And did you discuss with them that you were going to say that you got upset because Chang didn't come home at night and was having an affair with a Chinese girl?

A I don't understand who you mean by "them".

Q I assume it is Barbar Harris and your sister. Did you talk to anyone else about it?

A No, no. I am sorry, what was the question?

Q Did you discuss with Barbara Harris and your sister, the day before you appeared, that you were going to tell the Immigration & Naturalization Service that you got upset at Chang because he was not coming home at night after your marriage and was having an affair with a Chinese girl?

A No, I did not.

Q But you did tell that to the Immigration Service on August 14; is that correct?

A Yes.

Q What did you do, just make that up out of old cloth?

A That's right.

Q There was no truth to it at all.

A Correct.

Q After you testified on August 14, 1975, were you told anything that day about your testimony by anyone at Immigration?

A Yes, I was.

Q What did they tell you?

A They told me to please tell the truth.

Q They told you they didn't believe you, isn't that fair?

A Yes.

Q They told you you were lying; is that correct?

A No, they did not.

Q Did they tell you you would be in trouble if you didn't tell the truth according to them?

A That's correct.

Q When you went nome that night, were you worried?

A Yes, to tell you honestly, I had contemplated and thought it over, and I thought it best to just tell the truth.

Q At least what you told them on August 15, 1975?

A What I thought on that date and what I recalled on that date.

Q Did you discuss your testimony with your sister and Barbara Harris on August 14, after you had lied?

A I told them I had lied.

Q Did you tell them you were scared?

A Yes.

Q YOu gave some testimony on direct examination, if I recall, about a conversation you say you had with Jimmie Yu in which Jimmie said something about them having a lawyer working with them, is that what your testimony was?

A Yes.

Q Do you recall on August 15, 1975 when you appeared and, as you said, told the truth giving this answer and referring to your early conversations with Tracy and Jimmy Yu:

"Now, they mentioned a lawyer, but it wasn't important, they didn't state he would be the lawyer, they just mentioned his name,"

is that true?

A Yes.

Q Did you tell Immigration anything at all about Yu saying to you, "We have a lawyer working with us"?

A At that first meeting with Jimmie we did not go into any detail on the lawyer, but he did tell me "We had a lawyer who is working with us" and I will meet him in the future, but it is not important that we discuss it at that particular meeting.

Q My question is a very simple one, Miss Hernandez.

A I don't seem to understand.

Q Did you tell the Immigration & Naturalization Service on August 15, 1975 that Jimmie Yu told you "We have a lawyer working with us"?

Did you tell him that?

A Yes, I believe I did.

Q Would you like to look at your statement and see if it is there?

A Please, yes.

Q You did say it?

A Yes.

Q Where is it?

A Right here.

Q I will read what you say you said.

"Now, they mentioned a lawyer, but it wasn't important, they didn't state he would be the lawyer. They just mentioned his name."

A Yes. I remember that.

Q But you did not say, as I understand your testimony, that Jimmie Yu told you he was the lawyer that was working with us, as you testified on direct examination?

A Was that statement at that meeting that I had, my first meeting with Jimmie Yu?

Yes, he did mention a lawyer, but it wasn't --

Q This is a question and answer --

THE COURT: He did mention a lawyer but what?

THE WITNESS: But it wasn't important. It wasn't exactly -- he wasn't exactly going to be taking care of the case. It wasn't very important that we discuss the lawyer at that meeting.

Q This was a Q and A, was it not?

A Yes.

Q This was being transcribed as you were answering questions?

A Yes.

Q Right.

A Yes.

Q You did not say in describing that conversation, you did not give the testimony that you gave on direct examination, which was that Jimmie Yu said, "We have a lawyer working with us"; is that correct?

THE COURT: The statement has been read and it speaks for itself.

Q Now, you testified about some threat that Perry Chang made to you. Did Gene Chu ever tell you -- did Gene Chu ever threaten you himself in words or in substance?

A No, he did. NOT

Q Did he ever say he would do you any bodily harm?

A No, he did not.

Q As a matter of fact, he told you that he was a little frightened of Perry, too?

A I don't recall him saying that he himself was frightened. What he did say was that he would believe

and expect that from him.

Q You don't recall him saying at any time that "Perry is a nasty guy. He's quite angry at me and I'm a little frightened of him myself"?

A I don't recall. I'm not saying he didn't say it. He may have it. But I do not recall.

Q Do you recall him saying that Perry was angry at him?

A I feel I answered that question already.

MR. SPRIZZO: I have no further questions.

MR. CONCANNON: No questions.

MR. BARRY: Yes, Your Honor.

THE COURT: Is it going to be lengthy?

MR. BARRY: May we take a five-minute break now?

THE COURT: If it is going to be a couple of questions, we can go ahead.

MR. BARRY: I don't know. It depends upon what I elicit, your Honor.

THE COURT: All right. We will take our afternoon break now. Ten minutes.

(Recess.)

E L I Z A B E T H T E R E S A H E R N A N D E Z

resumed.

(Jury present)

MR. SPRIZZO: Your Honor, there were a few questions I forgot to ask the witness.

THE COURT: All right.

MR. KINGHAM: No objection, your Honor.

CROSS-EXAMINATION CONTINUED

BY MR. SPRIZZO:

Q Miss Hernandez, you testified on direct examination about the conversation with the defendant Chu in which you told him you were a homosexual, is that correct?

A Yes, sir.

Q Did you tell that to the immigration and naturalization service the first time you appeared in August 14?

A I don't remember.

Q Did you tell it to anyone at all prior to your testimony at this trial?

A Yes.

Q You said it in the grand jury?

A I don't recall saying it to the grand jury. I don't know. I don't think I did.

Q Did you say it on August 15, 1975?

A I really don't recall. I don't think it is. I'm not sure.

Q When did you first remember it?

A Excuse me?

Q When did you first remember that conversation?

A When have I first remembered this?

Q When did you first remember that conversation?

THE COURT: There is no indication that she forgot it.

MR. SPRIZZO: She didn't mention it on August 14, she didn't mention it on August 15.

THE COURT: That doesn't mean she forgot it. Perhaps she wasn't asked.

Q Were you asked on August 15 when you gave your statement?

A I do not remember being asked.

Q You were asked about your dealings and conversations with Mr. Chu, were you not?

A Yes.

Q Did you remember it on August 15?

A I didn't see the importance of this particular -- I didn't see any importance, I didn't see any relevancy.

Q But you did remember it on August 15?

A I have never forgotten.

Q Excuse me?

A I have never forgotten the fact.

Q That you had told -- that's not the question. Maybe you misunderstand my question.

A I'm sorry, I didn't understand.

Q Had you remembered on August 15, 1975 that you told Mr. Chu that you were a homosexual?

A Oh, yes, I knew that I had told him.

Q Excuse me?

A I have known that I have told him. I did remember.

Q You did remember that on August 15, correct?

A Yes.

Q And you were asked about your conversations with Mr. Chu, is that correct?

A Yes.

Q And you were asked at the end of that examination whether there was anything else you wanted to add to the statement, is that correct?

A That is correct.

Q And you didn't mention it, is that correct?

A No, I didn't.

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Q Because you didn't think it was important?

A Right. It has no relation. I didn't think it did.

Q When did you first decide that that was important?

A In my -- in preparing for this trial.

Q With Mr. Kingham?

A Exactly.

MR. SPRIZZO: I have no further questions.

THE COURT: Mr. Barry?

MR. BARRY: I have no questions, your Honor.

THE COURT: All right. Any redirect?

MR. KINGHAM: I don't believe so, your Honor. Thank you.

THE COURT: All right. Thank you very much.

(Witness excused.)

MR. KINGHAM: The government calls Barbara Harris.

B A R B A R A D E L O R E S H A R R I S , called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Harris, will you speak up so that we can hear you back here, in the back of the courtroom?

A Yes.

Q Do you know Lisa Hernandez?

A Yes, I do.

Q When did you first meet Miss Hernandez?

A January of '74.

Q Did there come a time when you began living with her?

A Yes.

Q When was that?

A June of '74.

Q Do you know a man named Gene Chu?

A Yes, I do.

Q Do you see him in the courtroom? Will you point him out?

A Right over there. (indicating)

MR. KINGHAM: Indicating the defendant Chu, your Honor.

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THE COURT: The record may so reflect.

Q Do you recall when it was that you first met Mr. Chu, Miss Harris?

A Around July of '74.

Q Where?

A In the apartment on 80th Street.

Q Who lived in the apartment on 80th Street?

A Lisa and myself.

Q At the time you met Mr. Chu was anyone else present?

A Yes, there was.

Q Who was there?

A Perry.

Q Was there a conversation at the apartment at that time?

A Between the three of them, yes.

Q Did you hear any of the conversation?

A Not totally, no.

Q What did you hear?

A Recollecting of what they were going to go through when they went down to immigration .

Q Did you remain in the room for the conversation?

A No, I didn't.

Q Where did you go?

A I went to the bedroom.

Q How long did they stay?

A About an hour.

Q After that meeting with Gene Chu and Perry, did you have occasion to see Perry again?

A Yes, I did.

Q When was that?

A He came back to the apartment in August.

Q What did he do?

A He was supposed to stay there for about two weeks, I believe it was. But he only spent a night.

Q What did he do, did he do anything?

A No, he just came in after work and went to bed.

Q Did he bring any clothes?

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A A few.

Q After that night did he stay there or did he ever return to the apartment, that you know?

A No, he didn't.

Q Did there come a time when Lisa went to Puerto Rico?

A Yes.

Q Do you remember when that was?

A The end of October.

Q At about that time did you speak with Gene Chu?

A Yes.

Q In person or on the phone?

A On the phone.

Q Who called who?

A He called the apartment.

Q Were you at the apartment?

A Yes, Iwas.

Q What did you say to each other on the phone?

A He wanted to know if he could speak to me or see me at some time. I told him yes.

Q Did you tell him anything else?

A I gave him my phone number to my job because I was moving out of the apartment, and that would be where

he could contact me.

Q Did you give him any other phone number?

A Not at that time, no.

Q After that phone conversation with Mr. Chu, did you have another conversation with him?

A Yes, I did.

Q When was that?

A He called my house. Well, he called my job and I spoke to him there and then he called my house to speak to me.

Q Where were you living at that time?

A At my mother's. I moved there.

Q Where is that?

A In Brooklyn.

Q Had you given him your mother's telephone number?

A Yes, I did.

Q When he called you at your mother's house, did you have a conversation with him on the phone?

A Yes, I did.

Q What did you say to each other?

A He wanted to know could he meet me.

Q What did you say?

A I told him yes.

Q Did you make arrangements to meet him?

A Yes.

Q What arrangements --

A He said he was going to pass by, he was someplace in Queens, I believe, and he was going to pass by Brooklyn, my way, could he meet me outside my mother's and I told him yes.

Q Did you meet him?

A Yes, I did.

Q Do you remember what day of the week it was that you met him?

A I believe it was a weekend. A Saturday or a Sunday.

Q What happened?

A I met him outside in his car.

Q Outside where?

A My mother's house.

Q Did you have a conversation with him?

A Yes.

Q What did you say to each other?

A Well, he wanted to know where Lisa was, where he could contact her, because he felt that the authorities were getting behind him and he wanted to collaborate stories with her.

Q Did he tell you that?

A Yes, he did.

Q Did he say anything else?

A He couldn't understand why she didn't trust him.

Q What did you say?

A I told him I didn't know either.

Q Did he say anything else?

A No, he just said "Get in contact with her and let me speak to her. Just tell her that things might be happening and that I would like to talk to her," and I told him okay.

Q How long did your meeting in the automobile with Mr. Chu take?

A About a half hour.

Q After that did you contact Lisa?

A Yes, I did.

Q When?

A That night.

Q After speaking with her, did you speak with Mr. Chu again?

A Not right after, no.

Q How much later?

A A couple of days later.

Q On the phone or in person?

A On the phone.

Q Where were you?

A At work.

Q Did you call him or did he call you?

A He called me.

Q What was said?

A He wanted to knowif I had gotten in contact with Lisa and spoke to her.

Q What did you say?

A I told him yes.

Q Was there any other conversation?

A He wanted to know could he see me again.

Q What did you do?

A I told him yes.

Q Did you make an appointment to see him?

A Yes, I did.

Q Did you in fact see him?

A Yes, I did.

Q About when was that?

A About a couple of days later, I made arrangements.

Q Where?

A In his office.

Q Do you remember where that was?

A In Chinatown somewhere.

Q Who was present in the office during the conversation?

A Just Gene and myself.

Q What did you say to each other?

A Well, he told me that he didn't want to talk over the telephone, that's why he asked me down there, because he felt that his phone was being bugged, and he didn't want to talk over the line.

Q Did he say anything else?

A That he was supposed to have another meeting with Perry and Lisa for immigration, and that he coulnd't locate Lisa and Perry was acting up, and that he wanted to talk to Lisa and see if she could either get the marriage annuled, because things were getting too hot for him, and he didn't exactly know what was going on --

Q Do you recall any other conversation?

A Not that day, no.

Q What did you say?

A I told him I would tell her.

Q How long did this meeting with Mr. Chu take?

A No more than an hour.

Q Did you speak with him again after that?

A Yes, I did.

Q In person or on the telephone?

A On the telephone.

Q Where were you?

A At work.

Q Who called who?

A He called me.

Q Did you have a conversation with him?

A He asked me could he see me again.

Q What did you say?

A I told him yes.

Q Did you meet him again?

A Yes, I did.

Q Where?

A In his office.

Q Do you remember when that was?

A The end of November.

Q Did you have a conversation with him at his office?

A Yes, I did.

Q Was there anyone else present?

A No.

Q What did you say to each other?

A Well, he wanted to meet Lisa in Puerto Rico,

because he was going through there, he was going to another -- some other country, and he was having a stop-over in Puerto Rico.

Q Did he tell you this?

A Yes, and he wanted to know if she could meet him either at the airport at some point so that he can talk to her -- because he wanted her to see if she could get the marriage annuled in some island down there that does it very cheaply.

Q Did he say anything else, if you recall?

A No. I told him I didn't think that she would do it, so he said "Well, please find out and let me know." So I told him okay.

Q How long did that meeting with Mr. Chu take?

A No more than an hour.

Q After that did you have occasion to speak with Mr. Chu again?

A Yes, I did.

Q When in relation to the meeting did you speak with him?

A Over the telephone.

Q When in time in relation to that meeting?

A A couple of days after.

Q Where were you that time?

A At my job.

Q Did he call you again?

A Yes, he did.

Q What was said?

A He asked me if I got in contact with her, and I told him yes, but that I didn't think that she would be able to meet him at 3 o'clock in the morning. That was the time his flight was coming in.

So he wanted to know if she could get a hotel room and stay there until he came in and then he would meet her there and they could talk, and I told him I didn't know if that would be possible, but I would find out.

Q After that did you tell Lisa?

A Yes, I did.

Q After doing that did you speak with Mr. Chu again?

A Yes, I did.

Q When was that?

A A couple of days later.

Q What was said that time?

A I told him that I told Lisa and I wasn't sure whether she would meet him, and that was it.

Q Following those conversations, did there come

a time then when you spoke with Mr. Chu after that?

A Yes.

Q When was that?

A When he came back. He called. He was very angry because she didn't show up.

Q Let me just ask you this, Miss Harris. What did he say to you on the telephone?

A He was upset that she didn't show up.

Q Did he say that?

A Yes. He thought that she trusted him more and he couldn't understand why.

Q Do you recall when that conversation was?

A Sometime in December.

Q Of that year?

A '74.

Q Was that your last personal contact with Mr. Chu?

A Yes, it was.

Q Following that did you move to Puerto Rico?

A Yes, I did.

Q When, if you recall, was it that you moved to Puerto Rico?

A January of '75.

Q I show you what has been marked as Government's

Exhibit 40 identification. I ask you if you recognize that?

A Yes, I do.

Q Have you seen that before?

A Yes, I have.

Q Is there any handwriting on that document?

A Yes, there is.

Q Whose handwriting is that?

A My mother's.

Q Did you receive that in the mail?

A Yes, I did.

Q Do you recall when it was that you received it and where you were?

A I was in Puerto Rico, June of '75 I received it.

AMERICAN [illegible] COURT REPORTERS U.S. COURTHOUSE FOLEY SQUARE NEW YORK N.Y. [illegible]

Q What did you do with that after received it?

A I just read it and put it in a drawer.

Q Did you subsequently turn it over to the Immigration officials?

A Yes, I did.

MR. KINGHAM: Your Honor, Government's Exhibit 40 for identification is offered in evidence as Government's Exhibit 40.

MR. SPRIZZO: We object to this, your Honor.

May we approach the bench?

(At the side bar.)

MR. SPRIZZO: This letter raises the same problems that were raised in your Honor's ruling this morning with respect to the ruling on Carmen Miranda. It refers to this business about doing away with the girls.

While ordinarily I wouldn't have any objection to the letter going in, I think it is going to raise the same issue and I have the same objection to it.

MR. KINGHAM: Yout Honor, I think it should be made clear that this letter is clearly a statement of this defendant which relates to his knowledge and intent in connection with this case and his desire to get a hold

of the witness Lisa Hernandez out of desperation after the alleged extortion attempt.

I should note that it is authenticated, first of all, by its contents in which it says to Miss Harris, "I will get this to your mother and she will forward it to you." Indeed, if you look on the front of the envelope, it has Mrs. Harris' -- that is Miss Harris' mother's handwriting for the address which had been left blank for her obviously to fill in.

It seems to me that this is clearly a statement of the defendant, and although made perhaps post-conspiracy, that it Reflects on his knowledge and intent and that it should come in as his statement with a cuationary instruction with respect to the other two defendants.

MR. SPRIZZO: I think Mr. Kingham missed the point of my objection.

MR. KINGHAM: I haven't missed it at all.

THE COURT: I missed the point of his argument. It seems to me that there is a very prejudicial statement in here as to what Tracy thinks.

MR. KINGHAM: It is made by the defendant, though, your Honor.

MR. SPRIZZO: It doesn't make any difference.

MR. KINGHAM: It most certainly does. It shows his knowledge and intent, and we argue, if I may, from this letter that since these people have no connection with Alice Aviles, the only thing that is going to make Lisa Hernandez get in touch with him is by this defendant saying that -- the Tracy thing slipping in. What is key here is that this is a statement by this defendant --

THE COURT: I thought this was a letter from the mother.

MR. KINGHAM: No, it is a letter from the defendant forwarded to the mother to be sent to the witness.

MR. SPRIZZO: That doesn't make any difference. That is why I think he missed the point of my objection. There is ample testimony in this record from this witness and other witnesses that there was an attempt by Mr. Chu to contact this witness. The probative value of this evidence in this record is very cumulative. Secondly, the fact that the defendant wrote the letter in no way obviates the question of prejudice because the fact that Gene Chu referred to the same prejudicial material in the letter does not remove the problem.

Your Honor's ruling this morning was that it would be unduly prejudicial for the jury to hear about the so-called scheme to do away with one of the girls. The

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fact that the defendant refers to that in his letter, in fact in the context of his letter, his reference is entirely innocent. I see it has very slight probative value in the context. Two people have already testified to the same facts.

THE COURT: You are willing to stipulate --

MR. SPRIZZO: That a letter was sent.

THE COURT: That the defendant Chu did ask the witness to get in touch with Lisa?

MR. KINGHAM: Your Honor, that's the testimony. I don't even think they dispute that.

MR. SPRIZZO: Then what probative value does it have?

MR. KINGHAM: The entire terms show the desperation of this defendant at a time supposedly after the Pitt Street incident. The date of this letter is June 27, which is four days after the Pitt Street incident. When he can do nothing else to quiet these girls, what he does is he reaches out for this witness in June of 1975 in an effort to get a hold of her to get her into contact with him. I think that is highly probative.

THE COURT: Probative of what?

MR. KINGHAM: Of the defendant's intention here, your Honor.

THE COURT: Intention to do what?

MR. KINGHAM: If I may, the gist of the defense with respect to the blackmail is that these girls were trying to shake him down and therefore are lying. In here, because he makes reference to this other situation, it seems to me clear that the blackmail effort at least in the defendant's mind doesn't relate to blowing the whistle at Immigration because of the marriage scheme necessarily, but because of their fear that she had been done away with, and he is asking her, "Well, what about this, please get word, let me know you are all right."

MR. CONCANNON: I am concerned about this spill-over effect quite naturally about this sort of thing. There is a conspiracy charged here and there are quite a few conversations about contact between my client and Gene Chu. It seems to me that this is -- this does so very little for the Government and is so damaging to the defendants, and consistent with your Honor's ruling this morning, it is unduly prejudicial. It is not something that should have to be considered again by your Honor. It seems to me the Government is attempting again through this letter to do something which your Honor said they could not do this morning.

THE COURT: I am inclined to believe that.

I can see that it might be of some benefit to the Government, but the potential prejudice to the defendants seems to me to far outweigh that. I think it would be taking an unnecessary risk to let this in.

MR. KINGHAM: Your Honor, if I may, it would seem to me that the Government is entitled to bring out through this witness the fact that Mr. Chu as late as June 27, 1975 was attempting to contact these witnesses in Puerto Rico, and that that was after the alleged extortion attempt.

THE COURT: Are you willing to stipulate that it was a fact, that he was trying to get in touch with this witness in June, 1975?

MR. SPRIZZO: The problem with this letter, Judge, is that the Government is obviously going to argue the inference of subornation from the letter, which may not be a proper inference based upon the contents of the letter.

THE COURT: I don't think the Government is going to make any such argument.

MR. SPRIZZO: Then it has no probative value. What I am really saying, we are in a very tough spot here because the letter itself tends to show that the reason for the contact had nothing to do with her testimony,

but just the fact of ascertaining that she was alive, because there had been this death story going around --

THE COURT: You can bring out from the witness without the letter that she was trying to contact her in June, 1975 and she can use the letter only for refreshment of her recollection, if necessary, in that respect, without putting the letter in or referring to its contents.

I am going to exclude the letter as far as admission in evidence is concerned.

MR. SPRIZZO: What I planned to do on cross was just ask this witness whether or not anything in that letter indicates any attempt by -- whether the letter says anything about, you know, getting testimony straight, or things of that sort.

MR. KINGHAM: I object to that, your Honor.

MR. SPRIZZO: The inference they are going to argue to the jury, without getting into the contents of the letter --

THE COURT: I don't think that is proper either.

MR. SPRIZZO: It says that.

THE COURT: No, it doesn't.

MR. SPRIZZO: We are entitled to say what it does not say.

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MR. KINGHAM: Then by the same token we would be entitled to say what it does say.

THE COURT: I am going to rule out that question. You may ask her whether or not Chu was intending -- was attempting to reach her in June of 1975, and you may use the letter for refreshment of her recollection in that respect.

MR. KINGHAM: I would simply ask, your Honor, the leading question, on or about June 27, 1975, did you receive a communication in Puerto Rico that Mr. Chu was trying to reach you and Miss Hernandez.

THE COURT: All right.

(In open court.)

MR. KINGHAM: If I may, your Honor, I withdraw the offer of the exhibit and just ask one question of Miss Harris.

BY MR. KINGHAM:

Q On or about June 27, 1975, did you receive a communication in Puerto Rico in which Mr. Chu was attempting to contact you and Miss Hernandez?

A Yes, I did.

Q Miss Harris, have you ever been convicted of a crime?

A Yes, I have.

Q In January of 1976 did you plead guilty and were you convicted of the crime of attempted possession of stolen properly?

A Yes, I was.

Q Was that in Brooklyn?

A It was in Queens.

Q Did that plea of guilty relate to your possession of an airline ticket which had been purchased with a stolen credit card?

A Yes, it was.

Q Were you sentenced on plea of guilty?

A Just fined $100.

MR. KINGHAM: I have no further questions, your Honor.

CROSS EXAMINATION

XX BY MR. SPRIZZO:

Q When and where were you sentenced for the credit car violation?

A In Queens, in January, 1976.

Q State or Federal?

A Federal Court, I believe.

MR. KINGHAM: Your Honor, if I may, it was not Federal Court. I think a misimpression should not be created. It was a State offense.

THE COURT: If it was in Queens, it wouldn't be in Federal Court.

MR. SPRIZZO: The witness may be referring to the Eastern District.

Q Was it a State offense?

A I don't understand.

Q You were in the State Court, not the Federal Court?

A Yes.

Q Did you plead guilty?

A Yes, I did.

Q Was that your only brush with the law?

A Yes, it was.

Q When did that take place? I didn't get your testimony.

A Excuse me?

Q When did that take place?

A January, 1976.

Q The plea?

A The plea?

Q The plea of guilty was January, 1976?

MR. KINGHAM: Objected to. Asked and answered three times.

THE COURT: I think he wants to know whether

that was the the plea or the sentence that took place in January, 1976.

Is that what you want to know?

MR. SPRIZZO: Yes.

A I believe it was in February that I pleaded to it.

Q The offense was in January?

A Yes.

Q Have you been sentenced? I think you said you were sentenced.

A Yes.

(Continued on next page.)

Q You testified on direct examination about a series of meetings which you say you had with Mr. Chu, is that correct?

A Yes.

Q You remember being interviewed on November the 2nd, 1975 before the Immigration and Naturalization Service?

A Do I remember an interview?

Q Do you remember being interviewed on September 2nd, 1975?

A Yes.

Q I take it you were interviewed by an agent of the Immigration and Naturalization Service?

A Yes.

Q I take it that was Mr. Hirschman?

A Hirschman.

Q Was that a sworn statement?

A Yes, it was.

Q Was he asking you questions and you were giving him answers?

A He told me -- asked me to just give him a general idea of what happened.

Q Did he ask you about your contacts with Mr. Chu?

A I told him about them.

Q Did you say anything at all in that statement about a series of meetings with Mr. Chu?

A No. I just generalized at the time when she asked me to do it.

Q As a matter of fact, all you said on that occasion, this is September 1975, under oath, was that you had spoken to him on the telephone on several occasions, isn't that correct?

A Yes.

Q You mentioned nothing about a meeting outside your mother's house in Brooklyn, is that correct?

A Yes.

Q You mentioned nothing about a large series of meetings which you have now testified to on direct examination?

A Yes.

Q You didn't remember it?

A I wasn't asked.

Q Weren't you asked to give your contacts with Mr. Chu?

MR. KINGHAM: Objection, your Honor, asked and answered.

MR. SPRIZZO: She is saying she was not asked.

THE COURT: He may inquire.

A I was asked to generalize.

Q You were asked, were you not, to give a recitation of your dealings with Mr. Chu?

MR. KINGHAM: Asked and answered. Objection.

MR. SPRIZZO: I'm entitled to probe this witness' recollection .

THE COURT: Not by asking the same question.

MR. SPRIZZO: The problem is, she's gone two ways, Judge --

MR. KINGHAM: I object to the colloquy.

THE COURT: The jury will disregard counsel's statement.

Q Were you asked a series of questions about your relationship with Mr. Chu?

A Not a series, no.

Q What were you asked?

A I was asked to generalize.

Q Generalize what?

A On what I had -- my meetings with Mr. Chu.

Q Did you mention a single meeting with Mr. Chu on that occasion?

A Ibelieve I did.

Q Did you mention a meeting outside your mother's

house?

A No, I didn't.

Q What meeting did you mention?

A I do not recollect.

Q But you do say you testified about a meeting?

A Yes.

Q Would you like to look at the statement to refresh your recollection as to which meeting you told him about?

A Sure.

Q Has your recollection been refreshed?

A Yes, it has.

Q Which meeting did you tell him about?

A I didn't.

Q You didn't?

A No.

Q Did you read this statement before you signed it?

A Yes, I did.

Q Did you tell him the truth when you signed that statement?

A Yes, I did.

Q Did you say anything at all in that statement that you gave to the immigration service on September,

1975 about the meeting that you testified to on direct examination in Lisa Hernandez's apartment?

A No.

Q Slipped your mind?

A At the time, yes.

Q You forgot all about it?

A Yes.

Q When did you first meet Elizabeth Hernandez?

A January, '74.

Q Where did you meet her?

A At a club.

Q In Manhattan?

A Yes.

Q Did you become close friends?

A Yes.

Q When did you say you first moved in with her?

A June of '75 -- '74, I'm sorry.

Q June of '74?

A Yes.

Q When did you say was the last time you spoke to Mr. Chu?

A In December of '74.

Q You haven't spoken to him since?

A No.

Q Did there come a time when you had a conversation with Elizabeth Hernandez about her having to appear for an interview at the Immigration and Naturalization Service in Puerto Rico?

A Yes.

Q Do you recall when that was?

A No, I don't.

Q Was it in or about August of 1975?

A I don't recollect.

Q Were you in Puerto Rico in August of 1975?

A Yes, I was.

Q Were you living with Elizabeth Hernandez at that time?

A Yes.

Q Did there come a time when Elizabeth Hernandez discussed what testimony she would give to the Immigration and Naturalization Service in or about August of 1975?

A No.

Q Younever discussed it with her?

A No.

Q You never discussed on your oath the testimony that she was to give to the Immigration and Naturalization Service with Elizabeth Hernandez at all?

A Not what she was going to say, no.

Q Excuse me?

A Not what she was going to say, no.

Q She never told you generally what she was going to say to the Immigration and Naturalization Service?

A No.

Q She never discussed thatin your presence and in the presence of her sister in Puerto Rico?

A Not that I recollect, no.

Q Did the government ever ask you whether or not you had ever discussed her testimony before she appeared?

MR. KINGHAM: Objection, your Honor.

THE COURT: That's a different question. Your testimony, you said. Read the question.

MR. SPRIZZO: I'm sorry.

THE COURT: I think you did.

Q I will rephrase it. Did the government ever ask you whether or not you had discussed with Elizabeth Hernandez, Elizabeth Hernandez's testimony before the Immigration and Naturalization Service when she was called to appear?

MR. KINGHAM: Objection, your Honor. What is the government? I don't know who we are talking

about or when in the question.

MR. SPRIZZO: Anybody from the government.

THE COURT: She may answer.

A I don't understand his question.

Q I will try and rephrase it.

Elizabeth Hernandez received a subpoena to testify before the Immigration and Naturalization Service, do you remember that?

A Yes.

Q And she appeared in or about August of 1975, do you remember that?

A Yes.

Q And prior to the time that she appeared -- I've already asked you whether or not you discussed your testimony with her and you've said no. Now my question is, did the government ever ask you whether or not you had discussed Elizabeth Hernandez's testimony with her before she appeared?

A I don't recollect.

Q You don't remember?

A No.

Q You don't remember if they asked you that question?

A No.

Q Isn't it a fact that you appeared with her on August 15, 1975 when she appeared the second time before the Immigration and Naturalization Service?

A Yes.

(Continued on next page)

Q Did you discuss her testimony the night of August 14 before she appeared the second day?

A Yes.

Q And did she tell you that she had lied to the Immigration & Naturalization Service?

A Yes.

Q Did she ask you to appear with her the next day?

A Appear or go with her?

Q Go with her?

A Yes.

Q Did she tell you that the Immigration people had told her that she was in trouble?

A Yes.

Q Did she tell you she was scared?

A Yes.

Q Did she tell you that they had not believed what she had said?

A Yes.

Q Did she tell you that she had told the Immigration Service on August 14, 1975 that she had fallen in love with Perry Chang?

A No.

Q Did she tell you that she was upset because Perry

Chang was not coming home at night and was having an affair with a Chinese girl?

MR. KINGHAM: Objection, your Honor, as to whether she was or was she told.

THE COURT: The question is whether or not Elizabeth Hernandez told her that she had told the Immigration & Naturalization Service that on August 14.

MR. KINGHAM: I believe so. That's not the way the question was put.

MR. SPRIZZO: I will accept your question.

THE COURT: Do you understand the question as I have explained it?

THE WITNESS: Yes.

No, she didn't.

Q Did she tell you she had made up that story out of old cloth?

A Where

Q Old cloth, fabricated.

THE COURT: Thin air.

A No.

Q You had met Mr. Chang, right?

A Yes.

Q He stayed at the apartment?

A Yes.

Q On occasion?

A Yes.

MR. SPRIZZO: Your Honor, I know what your ruling is going to be but I want to ask the question for the record.

THE COURT: All right.

The jury will disregard the question.

MR. KINGHAM: If that is the case, I ask that it be put at the side bar.

BY MR. SPRIZZO:

Q You were asked about a contact that you received some time in June of 1975, a letter from Mr. Chu; is that correct?

A Yes.

Q Did anything in that letter indicate anything at all about Mr. Chu wanting to get stories straight?

MR. KINGHAM: I object, your Honor, and reoffer the letter.

THE COURT: Yes.

I will instruct the witness not to answer, and I will instruct the jury to disregard the question, pursuant to the conversation we had at side bar earlier.

MR. KINGHAM: Thank you, your Honor.

BY MR. SPRIZZO:

Q By the way, did Elizabeth Hernandez ever tell you that Perry Chang was having an affair with a Chinese girl?

A No.

MR. SPRIZZO: I have no further questions.

MR. CONCANNON: No questions.

MR. BARRY: No questions, your Honor.

THE COURT: Any redirect?

MR. KINGHAM: If I may, your Honor.

REDIRECT EXAMINATION

BY MR. KINGHAM:

XX Q Let me show you what is Government's 3543 for identification. I believe it is the same document that Mr. Sprizzo showed you when he was attempting to refresh your recollection as to what you had told Mr. Hittelman.

Do you recall being shown the document, Miss Harris?

A Yes.

Q Would you read to yourself the second page of that. Is that your statement?

A Yes, it is.

Q Would you look at that and read the second page to yourself and then I will ask you a question about it.

(Pause.)

Q Have you read it, Miss Harris?

A Yes.

Q Have you read the statement in the middle of the page, have you read those to yourself?

A Yes.

Q Does that refresh your recollection as to whether or not you told Immigration Service in Puerto Rico that you had had any meetings with Mr. Chu?

A Yes.

Q Did you tell them that you had met Mr. Chu on at least one occasion?

A Yes.

MR. KINGHAM: I have no further questions.

RECROSS EXAMINATION

XX BY MR. SPRIZZO:

Q Isn't that also true that that was the only meeting you mentioned in your interview with the Immigration & Naturalization Service; is that correct?

A Yes.

Q Nothing about these other meetings you have testified to on direct examination?

MR. KINGHAM: We will stipulate to that.

THE COURT: All right.

MR. KINGHAM: I have nothing further from Miss Harris.

THE COURT: Thank you, Miss Harris. You are excused.

(Witness excused.)

THE COURT: We will stand in recess until 10 o'clock in the morning.

(Jury excused.)

MR. KINGHAM: Your Honor, you will recall that on Thursday when we broke you had asked me to report t the Court on the status of the immigration of Yar Lee Fu, who was John Joseph Jout's sister.

Following that, Mr. Fleming told me that he wanted to see Mrs. Fu's Immigration file, and that he would, frankly, subpoena it.

I told Mr. Fleming that would not be necessary, I would obtain the file and present it to the Court.

I make the following two representations:

First of all, I have been advised by Mr. George Vicien, who I understand is the operations director with respect to naturalization petitions in Brooklyn, in the Eastern District -- Mrs. Fu lives out in Suffolk County -- her and her petition for naturalization was received by the Immigration Service on October 22, 1975.

In the normal course of events, had it not been delayed somewhat -- and I will explain that in a minute -- her petition would have come up for a hearing within, I would say, three or four months; it might have been in February of 1976 when her petition would have come up for hearing out in Supreme Court Suffolk County. However, that did not take place. The reason it did not --

THE COURT: You don't mean Supreme Court, Suffolk County, you mean the Eastern District of New York?

MR. KINGHAM: The State Courts can handle naturalization petitions, and because of the location of the people, rather than come to the Federal Court, they are interviewed out in the State Courts.

That normally would have happened some time in early '76. However, Mrs. Fu was interviewed in connection with this case and, as you have heard the testimony, she was present at meetings in Mr. Chu's office. A statement was taken from her in connection with this case.

For that reason, her immigration file was taken from the mainstream, given to investigations during the time that she was being interviewed, and was held there until I decided that I did not intend to use Mrs. Fu as a witness in the case.

Mr. Jout will be sufficient.

At that time I requested that Mrs. Fu's file be returned to the mainstream, and I asked that if possible it be placed in the place where it normally would have come up had it not been for the fact that we were holding her file pending this case.

Mr. Hittelman made that request for me. However, I'm advised by Mr. Vicien that, frankly, that cannot be done and that Mrs. Fu's file at that time had arrived back in Brooklyn on May 7, 1976 and that normally she could expect to have a hearing some time in August on her petition.

I can state that to my knowledge these facts have not been communicated to Mrs. Fu, that is, she does not know that we have delayed her petition pending the investigation of this case, nor does she know that her Immigration file has now been placed back in the mainstream.

To my knowledge those representations, and they certainly have not been done by me or Mr. Hittelman, certainly have not been made known to the witness Mr. Jout.

One other thing, Mr. Fleming has asked for the disclosure of Mrs. Fu's Immigration file. The Government opposes that and would move to quash any subpoena on that ground, on the ground that the production of this file would invade the privacy of Mrs. Fu, who is neither a witness

in this case, at least at the present time, unless she should become necessary on rebuttal, nor really does the nature of her Immigration file have anything to do with this case itself -- it is another matter.

I would suggest, if the Court has any question that I be allowed to hand up the file for an in camera examination along the lines that I have just discussed, and I will be happy to do that. I have the file in court.

MR. FLEMING: Your Honor, I think the only reason we want to look at the file was to see if there might be anything in there that might bear upon Mr. Jout's credibility, requests for favorable treatment because the man is a cooperative witness, et cetera, et cetera, that kind of Brady material, or you can call it whatever you want to call it, and that would be the purpose of my examining the file.

THE COURT: I take it you have gone through the file yourself and have assured yourself that there is no Brady material in it?

MR. KINGHAM: I have indeed. In fact, I was surprised to find out that her chances for a speedier naturalization had been hurt because we held the file. I had not realized that until I looked at the file myself.

THE COURT: If you want me to look at it as well,

Mr. Fleming, I will do that.

MR. FLEMING: If Mr. Kingham assures me that there is nothing in that file which deals with the issue of Jout's testimony here, and the treatment to be accorded her petition based upon Jout's testimony here, what I consider to be Brady material, and what I think an experienced Assistant would consider to be Brady material, I will accept that representation.

I won't put your Honor to that trouble.

MR. KINGHAM: I make that representation with one caveat. There is something that bears on the testimony in this case and that is a sworn statement by Mrs. Fu which directly corroborates everything her brother said on the witness stand. But there is certainly no Brady material here.

Indeed, the only notation that might be of interest is a tag that I can show the Court that says "Special" and what that meant was that is when it was -- the first "Special" relates to a reentry visa that has nothing to do with this case.

The other one says "Special delayed processsing," and that is when I asked Mr. Hittelman to make sure this got back in the mainstream, but those facts have not been communicated to either Mrs. Fu or her brother Mr. Jout,

bss

as far as I am concerned.

MR. FLEMING: One other question:

Does that mean, Mr. Kingham, that when she goes before the State Supreme Court she either will or will not become a citizen?

MR. KINGHAM: No. The process is that now her file must be considered just like anybody else's, and if they need further investigation on her file they do that.

The only thing was that we asked that this be put back in the line where it normally would have been and they told me they could not do that. She is hurt and not helped.

THE COURT: Thank you.

(Adjourned to Tuesday, May 11, 1976, at 10.00 o'clock a.m.)

Chu

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Carmen Miranda (Resumed)	496	528	550	
Virginia A. Miller	558	569		
Elizabeth Teresa Hernandez	573	604		
Barbara Delores Harris	638	660	675	676

EXHIBIT INDEX

Court	Identification	In Evidence
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UNITED STATES OF AMERICA

vs. 76 Cr. 439 (WCC)

GENE LOY CHU, et al.

May 11, 1976
10:00 a.m.

Trial resumed.

- - -

(In open court; jury present)

MR. KINGHAM: The government calls Imgard Cruz.

I M G A R D C R U Z , called as a witness by the government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Miss Cruz, I'd ask you to keep your voice up so that we can hear you here in the back of the courtroom. Would you do that, please?

A Yes.

Q Are you a citizen of the United States?

A Yes, I am.

Q Where were you born?

A Brooklyn.

MR. FLEMING: I can't hear, your Honor.

THE COURT: Speak up, please, so they can hear you way in the back of the room.

Q Do you know a person named Carmen Miranda?

A Yes.

Q Is that Tracy?

A Yes.

Q Do you know Mildred Miranda?

A Yes.

Q Do you know Frances Torres?

A Yes.

Q How do you know them?

A I know them through the marriages and I know them as friends too.

Q Do you know where they live?

A Yes.

Q Is that 2185 Valentine Avenue?

A Yes.

Q Do you also live there?

A Yes.

Q Do you know a person named Jean Fong?

A Yes.

Q Do you know her by any other name?

A Mom.

Q Do you see Mom in the courtroom?

A Yes.

Q Would you point her out?

A (Indicating).

MR. KINGHAM: I believe indicating the defendant Jean Fong, your Honor.

THE COURT: The record may so reflect.

Q Miss Cruz, were you present at Mildred Miranda's wedding?

A Yes.

Q Before that wedding, did you meet Jean Fong?

A I met Jean Fong -- that's Mom -- through Frances.

Q Was that before or after Mildred's wedding?

A Excuse me?

Q Was that before or after Mildred's wedding?

A Before.

Q At the time you met Mom, where did you meet her?

MR. CONCANNON: Your Honor, I object to Mr. Kingham using the familiar, as her friend's called her Mom, that doesn't entitle him to. I suspect that it is being used in a derogatory way. Her name happens to be Jean Fong, Ms. Fong or Mrs. Fong would be more appropriate.

MR. KINGHAM: If your Honor please, I am using in my question the name that the witness apparently knows her by.

THE COURT: What name did you know her by?

THE WITNESS: Mom.

THE COURT: Did you ever call her Jean Fong when you were talking to her?

THE WITNESS: Everybody called her Mom. I used to call her Mom too.

THE COURT: You may call her Mom. The jury will understand there is no implied criticism in the use of the term "Mom."

Q Where was it that you met her?

A In the house.

Q I didn't hear you, Miss Cruz. Please speak up.

A In the house.

Q Where was her house?

A I don't know.

Q Was it in Manhattan?

A I know it is in Manhattan, but I don't know exactly where.

Q Who was present?

A Me, Frances, I don't know if Tracy was there, Mom and Diego.

Q Who is Diego?

A Diego was this guy I was seeing. Tracy Miranda's brother.

Q Do you recall any conversation at the time you met Mom or Jean Fong?

A Well, at that time the conversation had to do like I think it was the groom didn't show up, Frances was waiting, and, you know, that was about it. At that time I wasn't too familiar about what was happening. I knew what was happening, but then again, like, I was just there.

Q Prior to Mildred's wedding, Mildred Miranda's wedding, did you have a conversation with Mom?

A Yes. I asked her if I could get into it, andshe told me no, but then she told me it could be easy for me because being that I was pregnant, it could be easy for me if the Chinese man would give me the name and

my son -- give the name to my son too. I said no, that I didn't want to do that. So then she said I could wait until after I give birth. So that was all that was talked about then.

Q Were you pregnant at the time of Mildred's wedding?

A Yes, I was.

Q Do you recall where that wedding took place?

A In City Hall.

Q Do you recall who was present, aside from yourself?

A Mildred, Mom and her groom. That's it.

Q After the wedding, where did you go, after Mildred's wedding, do you recall?

A We went to eat, and then we had pictures taken.

Q Where did you go after that?

A I think we just -- everybody split up. Oh, no, we went to -- I am sorry.

THE COURT: What did you start to say?

THE WITNESS: We went to Gene's, the lawyer's office, for her to pick up her money, but I stood outside. They asked me to stay outside, so at that time I didn't know what was going on inside.

Q Did you meet Gene the lawyer at that time?

A No, not at that time. I saw him at the door, but that was it.

Q Did there come a time later when you met him?

A Yes.

Q Do you see that man in the courtroom?

A Yes.

Q Point him out, please.

A (Indicating).

MR. KINGHAM: I believe indicating the defendant Chu.

THE COURT: The record may so reflect.

Q When was your baby born, Miss Cruz?

A December 19, 1973.

Q Were you married at that time?

A No.

Q Did you get married after that?

A Yes.

Q When were you married?

A January 29, 1974.

Q What was hour husband's name?

A Brian Yeung.

Q Is he a Chinese man?

A Yes.

THE COURT: Spell the last name.

THE WITNESS: Y-e-u-n-g.

Q Where did you meet Brian Yeung?

A In the lawyer's office.

Q Do you recall when it was that you met him?

A I met him I think it was the beginning of January.

Q 1974?

A Yes

Q Before you met Brian Yeung, didyou have a conversation with Tracy?

A Yes, I did.

Q When was that conversation?

A It was a couple of weeks, about two weeks after I had my son. It was also the beginning of January.

Q Do you recall what you said to each other?

A Yes.

MR. FLEMING: Can we have an objection, your Honor?

THE COURT: Yes. The same instructions I have given the jury previously. Go ahead.

Q What was said, Miss Cruz?

A She had spoken about it, you know, what she

had gone into. So I told her that I needed the money, you know, because I just had the baby, and, you know, I had so many things to get, debts to pay, etc. So she told me about this, you know, but she forgot that I already knew about it, you know.

She told me that she would get paid by Jimmy and that if she want she will make an appointment for me through Gene, the lawyer. I said -- you know, I said "Okay."

Q Whta did you do after that?

A She made the appointment, she contacted me, and then I went to see Gene, the lawyer.

Q Who was present when you saw Gene the lawyer?

A Me, Frances, Tracy and Gene the lawyer. This was in his office.

Q Was there a conversation at that time?

A Yes.

Q What was said?

A He asked my age, he introduce -- no, he ask my age. I am not sure if Brian was there in the first meeting or second meeting, I don't know if he came in later, I don't remember that too well.

Q Please tell the Court and jury what you recall of the conversation?

A Well, anyway, I asked him that I was interested in it, but like if I didn't have to have any kind of sex with him, and he told me no, you know. This was just for residence and I would get money out of it, that I would get $1,500 when I get married and then the rest monthly, I get paid the rest of the monty that is owed to me.

He spoke to me, I think I asked him about the divorce, and he told me, well, yes, after I am accepted to Immigration, you know, then I can get divorced.

Q Did you meet Brian at that time?

A I think -- not that day, I think I met him the second time, because I can't remember him being there.

Q If it was the second time, how much after the first time was it that you met him?

A I don't know. I don't know. I swear, I

don't recall. I don't know if it was the same day or the second day or the next time.

Q At the time you met Brian, was there a conversation?

A I was introduced to Brian and --

Q Who made that introduction?

A Gene, Gene the lawyer.

Q Where was that?

A In Gene's office.

Q Who else was present?

A Tracy and Frances, I think.

Q What was said?

A He introduced me to Brian Yeung and Jimmie. Jimmie was there with Brian. That was the first time I saw Jimmie.

Q Do you see the man that you were referring to as Jimmy, do you see him in the courtroom?

A I don't know, I can't pick him out because it was only once, and that was it.

Q What conversation was there after the introduction?

A My head just went blank. Could you repeat that, please?

Q After you were introduced to Brian and to the

man you were told was Jimmie, what conversation was there?

A You know, I am not even sure if it was Jimmie, but I know there was somebody there with him, and I think it was Tracy that told me that he was Jimmie, so I am not even sure. I don't even know what he looks like.

THE COURT: The question is, after you met Brian, what conversation was there in the lawyer's office?

THE WITNESS: Oh, he asked me if he was all right -- no, he asked Brian if I was okay for the marriage, and he said yes, and he asked me if he was okay, and I said sure. It didn't really matter, you know. So I said okay, and he said, "You have to get together, meet again to go for a blood test," et cetera.

Q Did there come a time when you went for the blood tests?

A Yes.

Q Where did you go?

A We went some place in Chinatown, Brian took me there.

Q Who went? Just you and Brian?

A Yes.

Q Did there come a time when you went to City Hall?

A Yes.

Q What did you do at City Hall?

A Me and Brian, we went and we registered, filled out forms.

Q Let me show you what has been marked Government's Exhibit 46 for identification, Miss Cruz. Would you look at that?

A Yes, I filled out --

Q Do you recognize that?

A Yes.

Q Is that the form you filled out?

A Yes.

Q Do you know what day it was that you filled it out?

A It was the day before I got married.

Q Where was that?

A In City Hall.

Q Does your signature appear on that document?

A Yes.

Q Does Brian Yeung's signature also appear on that document?

A Yes.

Q Do you know who filled the form out?

A Brian and me.

MR. KINGHAM: Your Honor, Government's Exhibit 46 for identification is offered as Government's Exhibit 46.

MR. SPRIZZO: No object.

(Government's Exhibit 46 was received in evidence.)

xx Q Miss Cruz, were you married to Brian Yeung on January 29, 1974?

A Yes, sir.

Q Where did the wedding take place?

A City Hall.

Q Who was present?

A Me, Brian and the witness, Margie Hernandez.

Q Who is Margie Hernandez?

A She was just a friend of mine.

MR. KINGHAM: Government's Exhibit 47 for identification is offered as Government's Exhibit 47.

MR. SPRIZZO: No objection.

(Government's Exhibit 47 was received in evidence.)

xx MR. KINGHAM: Your Honor, may I read from Government's Exhibit 47?

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 47 in evidence to the jury.

Q On the day of your wedding after the ceremony, Miss Cruz, where did you go?

A We took pictures and then we went to a restaurant in Chinatown. I think it was Joy Lu[illegible], something like that.

Q Then after that, what did you do?

A Then we split. Me and Marguerita -- no. We went to Gene's office, Gene the lawyer's office, and then I got paid $1,500.

Q I am sorry. Will you continue your answer?

A That was it.

Q Who was at the lawyer's office with you?

A Me, Frances, Tracy and Gene the lawyer.

Q Had Frances and Tracy --

A And Marguerinto -- I don't know if Marguerita was in there. I think she had to wait outside.

Q Had Frances and Tracy been with you at City Hall?

A No.

Q What happened at the lawyer's office that day?

A Gene gave me the money --

Q How much did he give you?

A $1,500.

Q Cash or check?

A Cash.

Q What did you do?

A And I counted it and I took out $250 for ?racy.

Q Did you give it to Tracy?

A Yes, I did.

Q Let me show you what has been marked Government's Exhibit 41-B for identification.

Would you look at that document, please? Turn it over and look on the other side. Is that your signature on the document?

A Yes.

Q Do you recall when and where you placed your signature on that document?

A When? I know it was in Gene's office. I don't recall when exactly.

Q At the time you placed your signature on the document, was there any conversation about it?

A Just to remember to sign my last name.

Q What last name was that?

A Yeung.

Q Who told you that?

A Gene.

MR. KINGHAM: Your Honor, Government's Exhibit 41-A through 41-F for identification, offered as Government's Exhibits 41-A through F, respectively, are the subject of a

stipulation.

MR. SPRIZZO: No objection.

MR. CONCANNON: Your Honor, I have the usual "connection" objection.

THE COURT: Yes. All of these documents, of course, are being received on the same basis.

(Government's Exhibits 41-A through 41-F, inclusive, were received in evidence.)

xx MR. KINGHAM: Your Honor, I believe the stipulation with respect to 41-A is that it contains the signature of Gene Loy Chu and was received at the Immigration Service at the day and time indicated with its contents.

I would like to read from 41-A, if I may.

THE COURT: All right.

(Mr. Kingham read from Governemnt's Exhibit 41-A in evidence to the jury.)

(Continued on next page.)

T2A am

Q Miss Cruz, calling your attention to Government's Exhibit 41-B in evidence, the yellow pice of paper on which you identified your signature.

Do you recall, Miss Cruz, the information here which says last address at which you and your spouse resided together, Apartment 6-A, 2185 Valentine Avenue, January, 1974 to the present; was that on the form at the time you signed it, do you know?

A No.

Q In January, 1974 did you live with Brian Yeung at that address?

A Yes.

Q How often would he come there?

A Once a week, sometimes not for some time.

Q After the day of your wedding, which was January 29, 1974, did he move some clothes and luggage into the apartment, after the day of your wedding?

A Yes, he brought some of his things up -- some of his clothes and things just hanging around.

Q Prior to the day of your wedding did he move anything up there, do you recall?

A What do you mean, the same day I got married?

Q Before that?

A Before that?

Q Yes.

A I don't think so. I don't know. I don't think so.

Q During the year after your wedding, where did Brian live?

A After my wedding?

Q After you got married, during the next year, where did Brian Yeung live?

A Well, he was living in Connecticut, and like on his days off he would come to my house and stay over in my house.

Q Was he also working in Connecticut?

A Yes.

Q Did you ever have sexual relations with Brian Yeung?

A No.

Q Where did he sleep and where did you sleep in your apartment when he would come there?

A He slept in the living room. We had a little couch and I slept in my bedroom with my son.

Q Did you obtain any money from Brian Yeung during that period?

A What do you mean "obtain"?

Q Did he pay you any money?

A Monthly he paid me.

Q How much did he give you?

A 280.

Q Was there a telephone in your apartment before you got married?

A Not before.

Q Did you get one afterwards?

A Yes.

Q What name did you put the phone in?

A Yeung.

Q Miss Cruz, during the eight or nine months after your marriage, did you see or hear from Gene Chu, the lawyer?

A I don't know if I went -- I don't recall going, because I would just be home.

Q Did you ever speak with him on the phone?

A He called me up maybe once or twice to see how we were doing, and, like, he would say he would come over, but I don't even recall what was the conversation about, and that was it. But I know he never came to my house.

Q Let me show you what has been marked Government's Exhibit 43 for identification, Miss Cruz.

Would you look at this and tell me if you have seen either that document or a copy of it?

A Yes.

Q Where was it when you first saw it?

A When it came in through the mail.

Q To what address?

A To my address, 2185 Valentine.

Q Do you recall when that was?

A Some time in September.

Q Of 1974?

A Yes.

Q After you received this notice what did you do?

A I think I called up Brian, or I told Brian to call up Gene the lawyer, or I called up Gene the lawyer, something like that, to let him know -- I think I called him up and he just told me that he received one, too.

Q Who said that?

A Gene. Gene, the lawyer, that he has a copy also.

Q What did you do?

A So we was asked to meet in his office.

Q Did you go to his office?

A Yes.

Q Who went?

A Me and Brian. Brian could pick me up on his day off and we would go down there.

Q Was there a conversation in the lawyer's office?

A Yes. We had to get our story straight.

Q Who said that?

A Gene. He said we have to get the story straight and say the same thing.

Q What else was said, if you recall?

A I know he was rehearsing -- how the house is like, the bathroom, every detail was very important, he would say, Gene the lawyer, and so when Brian -- when it was a little hard, Brian would say he couldn't lie, he says he feels funny lying, he has a hard time. So Gene the lawyer asked him to pretend, just to do it on a pretense.

So we tried it that way. It was working out a little bit more, much better.

Q Was there any conversation about how you and Brian had met?

A Oh, yes. We were supposed to have met in Margie's house through David Chang. That was his friend, that David Chang was going to a party, or get to-gether, and there was supposed -- he brought Brian, and I was there and that's how we met.

Q Who said that?

A I think between Brian and -- between all of us we got that story together.

Q Who was "all of us"?

A Me, Gene the lawyer and Brian.

Q Was that story true?

A No.

Q Where did you meet Brian?

A In Gene's office.

Q Do you recall any further conversation at that meeting after you got the first notice?

A Excuse me?

Q Do you recall any further conversation at that meeting after you got the notice?

A (No response.)

Q Did you go to Immigration at that time?

A Oh, it was canceled because Gene the lawyer said we wasn't ready. So we didn't go.

Q Did he tell you that?

A Yes, he said we wasn't ready.

MR. KINGHAM: Your Honor, Government's Exhibit 43 for identification is offered as Government's 43 in evidence, subject to the stipulation.

MR. FLEMING: No objection.

(Government's Exhibit 43 was received in

xx

evidence.)

MR. CONCANNON: Your Honor, again I have the usual connecting objection.

I would also ask your Honor to explain to the jury what my responsibilities are with respect to these objections.

THE COURT: I think the objection does not apply to this. This is just a notice of the interview.

MR. KINGHAM: It has a statement of the defendant on it, your Honor.

THE COURT: Yes. All right. I see that it does.

As I have explained to you before, there is a statement on this document which is purportedly made by Gene Loy Chu, one of the defendants. That statement is not chargeable against the other defendants unless and until the jury shall find that there was a conspiracy between Gene Loy Chu and the other defendants, and that this statement was made to further the ends of that conspiracy.

MR. KINGHAM: Thank you, your Honor.

MR. CONCANNON: If I may, I would also like the jury to know that our responsibility is to make these objections rather than to interrupt the proceedings.

THE COURT: I think the jury understands that each attorney has the responsibility to represent his own client and to avail himself of all legal objections.

Of course, as I will instruct you at the end of the trial, you should not consider the fact that objections were made or my rulings on the objections; those are legal matters. You will be determining only the facts in the case.

MR. KINGHAM: May I read from Government's Exhibit 43, your Honor?

THE COURT: You may.

(Continued on next page.)

MR. KINGHAM: The stipulation, I believe, your Honor, with respect to this is that this bears the signature of Gene Loy Chu, signed by him, and that this copy was received back at the immigration service at the date and time stamped on the top.

(Mr. Kingham read from Government's Exhibit 43 in evidence to the jury)

Q Miss Cruz, after the meeting in Mr. Chu's office did there come a time when you were interviewed at immigration?

A Excuse me?

Q Did there come a time when you actually went for an interview at the immigration service?

A Yes.

Q Do you recall the exact date of that interview?

A No. I know it was a couple of months after.

Q Let me show you what has been marked Government's Exhibit 45 for identification. Would you tell me if this refreshes your recollection as to the date of the interview that you had?

A Yes.

Q What was that date?

A January.

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Q January 8?

A Yes.

Q What year?

A 1975.

Q Who was at the interview with you?

A It was me, Brian and Gene the lawyer.

Q Before the interview where did you meet?

A We was in his office and he still felt we wasn't ready.

Q Did he say that to you?

A Yes.

Q What did you say?

A I said I just wanted to get it over with. And Brian said the same thing, too. So we figured we would do better over there.

Q Where was your baby that day?

A He was with us.

Q Was there any conversation about the baby in the lawyer's office?

A Yes. He says maybe that would have been better if -- that's if my kid gets along with Brian, and I said, yes, that my son is very friendly. So he thought it would show a better picture.

Q After that did you go to the immigration office?

A Yes.

Q Were you interviewed?

A Yes.

Q Did you answer the questions that were asked?

A Yes.

Q Who was present during your interview?

A Gene the lawyer.

Q Where was Brian?

A He was out with my -- watching the baby.

Q Did you tell the truth at your interview?

A No.

Q What did you say that was not true, if you recall?

A How we met in Margie's party through David Chang, and --

Q Whatever you recall, Miss Cruz.

A I guess us being happily married. I don't remember.

Q Miss Cruz, after your interview -- first of all, who was interviewed first, you or Brian, do you recall?

A Brian.

Q After your interview what did you do?

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A After my interview was over?

Q Yes.

A I got up and Gene told us try not to smile, not to say anything, so we didn't.

Q Did you leave the immigration offices that day?

A If we left immigration office?

Q Yes.

A Yes.

Q Where did you go?

A I'm not sure if we went to Gene the lawyer or we just went on our way.

Q Did you have any conversation with Mr. Chu after the interview, Gene the lawyer?

A I'm not -- I think he said we did all right. He said, when I came out, about something to do with that they was trying to confuse me with one of the questions he asked me, he said I did okay. And -- what else?

I htink that was all I could really recall.

Q Was there any conversation about immigration investigators?

A Oh, yes, he said --

MR. FLEMING: I must object to the leading,

your Honor. I object to it very strenuously, particularly the last question.

THE COURT: I think this question is only introductory. Just answer that yes or no, did you have a conversation about the investigators?

THE WITNESS: Yes.

Q What was said?

A He said that when the investigators come, for Brian to make sure and be there and to look convincing.

Q Since the day of your interview in January, 1975, have you seen Brian Yeung?

A I think -- I don't know, I think he stood home -- no, I think he want to work. I don't know if he stood home or if he just went to work. I don't recall that.

Q During the months after that did you see him from time to time?

A Yes. Once in a blue moon.

Q Are you in the process of getting a divorce at this time?

A Yes.

Q Miss Cruz, have any promises been made to you in connection with your testimony here today?

A No. Just that I won't be prosecuted.

Q Do you understand that you may be prosecuted for perjury if you lie under oath?

A Yes.

MR. KINGHAM: I have nothing further, your Honor.

CROSS-EXAMINATION

BY MR. SPRIZZO:

Q I believe you testified on direct examination that you had a conversation with Tracy Miranda.

A Yes.

Q And she asked you whether or not you would be interested in marrying a Chinese man?

A Yes.

Q Did you discuss the question of money with her?

A Yes.

Q How much money did she say you were supposed to get for marrying a Chinese man?

A 1500 when I be married and -- $3500, I think she told me. I don't really remember, but I know that she said that Jimmy was supposed to give her $250 for bring me in.

Q That's not my question. The question is what

did she say you were supposed to get?

A Excuse me?

Q What did she say you were supposed to get?

A $1500 once I get married.

THE COURT: Anything later?

THE WITNESS: The rest I would accumulate up to 3500.

Q Did you tell the immigration and naturalization service when they interviewed you that you were supposed to get $1500?

A What interview?

Q When you were interviewed by the immigration and naturalization service, do you remember that?

MR. KINGHAM: Objection, your Honor, as to what interview?

Q Have there been more than one? I will get back to it.

Do you remember being interviewed by the immigration and naturalization service and giving a signed statement?

A Yes.

Q Under oath?

A Yes.

Q That's the interview I'm talking about. Do

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you remember that interview, at that interview saying that Tracy told you you would get $1500?

A No.

(Defendant's Exhibit D marked for identification)

Q Mrs. Yeung -- is it still Mrs. Yeung?

A Yes.

Q Have you been divorced?

A It's in the process.

Q Which name --

THE COURT: Speak up, please.

Q Which name do you use?

A I use Cruz.

Q Miss Cruz, will you look at the first page of Exhibit D and see if that refreshes your recollection as to what you told the immigration service with respect to the amount of money you were supposed to be paid.

A Is this the interview you was referring to?

Q Yes, it is.

A I thought you was talking about the immigration interview.

Q Will you look at the last page of this?

A I thought you was talking about when the lady asked me questions. I didn't know it was that interview.

Q I'm referring to an interview conducted on--

A By Mr. Hittelman?

Q By Mr. Hittelman on July 22, 1975.

A Yes, I did tell him all that.

Q So you did tell him that Tracy Miranda had told you that you would get $1500?

A Right.

Q You made no mention at that time about the additional money that she said you were supposed to get, is that correct?

A No.

Q You forget it?

A I didn't recall, really.

Q You forget that she told you that you were going to get additional monies?

A I don't know because she was kind of confused herself, you know, so I know I'm supposed to get some kind of money. I know she told me $1500, and she wasn't too sure about how much I was supposed to get, but I had told her -- I told her that I was the one who was supposed to give her money.

Q When you appeared before Mr. Hittelman and gave your statement under oath, my question was had it slipped your mind that Tracy Miranda had said to you that

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you would get some more money?

A I kn[illegible] I was supposed to get more money. She said once I would get married I would get $1500 and then after that, you know, of course, monthly I would get the additional that would accumulate to $3500.

Q When you spoke to Hittelman you didn't tell him anything about the additional monies other than the $1500?

A I don't know because when I spoke to Mr. Hittelman, he caught me by surprise and I didn't remember a thing, so I only told him what I remembered.

Q My question is, you forgot, is that correct?

A Yes.

Q Now, I believe you testified on direct examination that Mr. Yeung stayed at your apartment whenever he had a day off, is that correct?

A Right.

Q And he'd come whenever he had free time and stay in your apartment at 2185 Valentine Avenue?

A Yes.

Q As a matter of fact, he was in your apartment for the better part of two years, is that accurate?

A No.

Q When did he move out?

A Befoer -- he was there for about a year on and off -- he was there on and off. There was a month he wouldn't even be home, and then like he just came in and he took all his things out.

Q As a matter of fact, Miss Cruz, he was living in your apartment at the time that you gave your statement to Agent Hittelman, is that correct?

A No.

Q Sometime in July of 1975?

A No, I don't think so. I don't remember.

Q As a matter of fact, he was in your apartment as late as the time when he testified before the grand jury, which is -- I'll give you the date --

MR. KINGHAM: Your Honor, I object to counsel testifying. Is there a question?

MR. SPRIZZO: That is a question.

THE COURT: I believe that is what it is. Let's have the reporter read what you said.

(Record read)

THE COURT: What is the date?

Q August 19, 1975.

THE COURT: All right. Was Brian still coming to your apartment on weekends at that time?

THE WITNESS: No.

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Q He was not?

A No.

MR. KINGHAM: My objection was to form, your Honor. I will withdraw it.

THE COURT: All right.

Q I'm going to show you what has been marked as Defendant's Exhibit E for identification.

(Defendant's Exhibit E was marked for identification)

Q I show you what has been marked as E for identification, which is the grand jury testimony of --

MR. KINGHAM: I object to that, your Honor. The witness should be shown it without any description of what the document is.

BY MR. SPRIZZO:

Q Would you look at Defendant's Exhibit E for identification, and look at the last page of that. Does that refresh your recollection as to whether or not Mr. Yeung was living in your apartment or still residing in your apartment on a sporadic basis in August of 1975?

A You are asking me a question?

Q Yes.

A I was trying to look at this.

Q Read it first and then we will have the question read back to you.

(Pause)

Q Does that refresh your recollection as to whether or not Mr. Yeung was still residing in your apartment in August of 1975?

A I just don't remember.

Q It's possible he might have been?

THE COURT: Is it possible he might have been at the time he testified?

THE WITNESS: When he testified where?

THE COURT: Before the grand jury.

THE WITNESS: He wasn't living in my house. I don't think he was living in my house.

Q So your recollection has not been refreshed by reading that testimony?

A No.

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Q What is your best recollection as to when he moved out?

A When he moved out?

Q Yes. When he took his clothing, baggage, belongings and left.

A You see, the thing is that when he moved out, I didn't even know about it. I was asleep, and when I woke up all his things were gone and he was gone. I got leery, so I changed the locks of the door.

Q But that's not my question. My question is, you found out at some point that he had left, is that right?

A Yes.

Q I assume from your testimony that you found out shortly after he had left?

A Yes.

Q What is your best recollection as to when he moved bag and baggage out of your apartment?

A I just don't remember when he left. I know he left.

Q Can you approximate it in any way?

MR. KINGHAM: Objection, your Honor. I think the subject has been exhausted.

MR. SPRIZZO: No, it hasn't, your Honor.

THE COURT: She can try to guess, how long ago was it?

THE WITNESS: I know sometime last year. This is '76. '75, I think a little before '75.

THE COURT: Before '75?

THE WITNESS: Yes.

Q Before January of 1975?

A I think so. I can't tell you yes or no because I really don't remember.

Q In your preparation sessions with Mr. Chu for your interview at the INS, Immigration and Naturalization Service, isn't it a fact that Mr. Chu told you and Mr. Yeung that if you were asked about whether or not you had sexual relations, that's a question you could refuse to answer on the grounds of personal privacy?

A Could you repeat that question?

(Record read)

A (Continuing) I think he did, I think he did.

Q He did? He didn't tell you to lie about that, did he? Withdrawn.

Is it your testimony that Mr. Yeung, and I take it it is your testimony, continued to make payments to you over a period of -- how long, a year? Year and a

half?

A Mr. Yeung?

Q Yes, Mr. Yeung.

A I think it was paid up already within about a year and a half.

Q Paid the rent?

A He paid -- yes.

Q He paid some of the food bills?

A The money he would give me like I guess I took care of the bills in the house.

Q Paid for the telephone?

A The telephone.

Q A phone you didn't have before he moved in, is that correct?

A I didn't have the phone before he moved in.

Q The phone was in his name, I believe your testimony was?

A The phone was under his name, yes.

Q As a matter of fact, isn't it true that Mr. Yeung paid monies to you for rent and food bills and other bills in excess of the $2000 that you say you were supposed to receive over a period of time?

A He paid me the money he was supposed to.

Q Isn't it a fact that he paid you more than he

was supposed to, according to your testimony?

A Through his generosity, I guess he did.

Q Isn't it a fact that Mr. Yeung was a very, very decent man?

A Yes.

Q And you have said so yourself to Mr. LaRocca when he interviewed you, isn't that correct?

A Yes, I did.

Q He was very kind to you and your children -- you and your child, excuse me?

A Yes.

Q Was he affectionate with the child?

A Yes.

Q As a matter of fact, the child called him "Dada" on occasion, did he not?

A Yes.

Q As a matter of fact, I think Mr. Yeung has referred to the child as his stepchild, has he not?

MR. KINGHAM: I object, your Honor.

MR. SPRIZZO: This is all relevant, your Honor.

MR. KINGHAM: If the witness knows.

MR. SPRIZZO: If she knows.

THE COURT: She may answer.

Did he refer to the child at times as his stepchild?

THE WITNESS: Well, according like to the marriage, I guess he did, and being he was alone and like he -- you know, he got along with me as a person, you know, and he gave me the utmost respect, and he was very, very gentle with my son, there was really no problem with our relationship at all.

Q Did he ever tell you that he liked you as a person?

A Yes.

Q I believe, as you have told Mr. LaRocca when he interviewed you, he was a very decent man and never tried to force his attentions on you, is that true?

A Yes.

Q But you got along very well with him?

A Yes.

Q And he got along very well with you?

A Yes.

Q As a matter of fact, on occasion did he not babysit for your child?

A Yes.

Q From your testimony, I understand he was

always very kind and affectionate and gentle toward the child and toward you?

A Yes.

Q Do you know whether or not Mr. Yeung has a petition pending with the Immigration and Naturalization Serivce to try and stay his departure from the country on the grounds of a special skill as a cook?

A I don't know.

Q He has never discussed that with you, has he?

A Sometimes he says things but sometimes I don't really understand what he is saying because he doesn't, you know, speak very well English, but I don't know --

Q Has he ever discussed any of the problems with immigration with you other than the interviews with INS you testified about? I will rephrase that.

Q Has he ever discussed his immigration problems with you since this investigation began sometime in the middle of '75?

A Yes. What do you mean, during the immigration interviews?

A After you spoke to the INS sometime during the summer of '75, from that time to the present, has he

ever discussed hsi other immigration applications with you?

A He was just hoping that it would come through, you know, and so that he could get his residenceship, and then things just started to go wrong.

Q Has he ever discussed with you the fact that he has a petition pending on grounds other than marriage to an American citizen with the Immigration and Naturalization Service?

MR. KINGHAM: I object, your Honor. Hearsay.

MR. SPRIZZO: I am not offering it for its truth, just for the fact that it was said.

THE COURT: I don't know the relevance of what he said. Sustained.

Q When is the last time you spoke to Mr. Yeung?

A Today.

Q Excuse me?

A Today.

Q Today? In the witness room?

A Yes.

Q Prior tothe time thatyou saw him in the witness room today, when is the last time you spoke to him?

A I spoke to him?

Q Yes.

A The last time was when he took me to the lawyer, we were going through the process of divorce, and then he took me out to dinner, and he took me home, and that was it. Then he left.

Q The divorce is still pending?

A Yes, it is on process.

Q It is going to be obtained in New York State or will it be obtained elsewhere?

A New York State.

Q Do you have a lawyer in that divorce proceedings?

A No, he has.

Q Have there been any discussions about property rights or settlement or support in connection with that divorce?

A No.

Q Has Mr. Yeung ever told you that the INS told him that he should get divorced?

A That what?

Q Has he ever told you that the INS told him that he should get divorced?

A Who is the INS?

Q Immigration and Naturalization Service.

A That we should get divorced?

Q Yes.

A I was the one that really brought it up, that we should get divorced.

Q But he hasn't told you that?

A No.

Q Were you employed at the time youmet Brian Yeung?

A No.

Q Were you on welfare at thattime?

A Yes.

Q You testified on direct examination that Gene Chu told you in connection with these interview sessions that you should make up a story as to how you met.

A Right.

Q Did you ever tell that to the immigration service when they spoke to you on July 22, 1975?

A What immigration, like Mr. Hittelman?

Q Hittelman, yes.

A If I ever told him --

Q Did you ever tell Mr. Hittelman on July 22, 1975 that during your interview sessions Mr. Chu told you and Brian that you would have to make up a story as

to how you met?

A Right.

Q You told that to Mr. Hittelman?

A That we had to -- I don't know.

Q Would you like to look at your statement to see if you said that?

A Yes, because I don't remember what I told him. I was just -- I just ran through that fast.

Q I direct your attention to pages 3 and 4 of what has been marked as Defendant's Exhibit D for identification. Would you look at that to yourself and see if that refreshes your recollection as to whether you told Mr. Hittelman that?

(Pause)

Q Does that refresh your recollection as to whether you told that to Agent Hittelman?

A I forgot the question.

Q The question is, did you tell Agent Hittelman on July 22, 1975 that Gene Chu had told you and Brian at these interview sessions that you should make up a story as to how you met?

A Yes.

Q You say you told that to Agent Hittelman?

A If I told him --

Q Did you tell Agent Hittelman on July 22, 1975 that Gene Chu had told you to make up a story as to how you and Brian met?

A Right.

Q You say that's in the statement?

THE COURT: No. She said she told him.

A I know I told him, but I don't know if it's in the statement.

Q Will you agree with me that it is not in the statement?

A Yes.

Q When you were asked these questions, when youhad this interview with Mr. Hittelman, was he asking you questions and writing the answers down?

A Yes, he did catch me by surprise, so there are a lot of things I didn't tell him that I could recall now.

Q Then what did he, he wrote it out for you and asked you to sign it?

A No. Okay, he asked me questions and I was just answering them the best I could, because I couldn't remember most of it. I just ran through it fast. I just wanted to, like, get it over with, you know.

Q Did he give you a chance to read the statement after he had written it out?

A Yes. He let me read it and sign any mistakes or anything crossed out, and I had -- then I signed it.

Q Yet you say you told him that Chu told you to lie about how you met, but that's not in the statement; is that correct?

A Maybe not that same -- that he was writing that out.

Q You say you might have told him later?

A Yes.

Q When did you first remember it?

A When I started remembering, when I started to remember and think about it more.

Q When did you start remembering and thinking about it more? When they interviewed you in connection with this trial?

A Yes.

Q During preparation sessions with Mr. Kingham and Mr. Hittelman; is that correct?

A Right.

Q When you signed this statement on July 22, 1975, do you remember what name you used when you signed it?

A Signed what?

Q When you signed this statement that you gave to Mr. Hittelman, do you recall what name you used when you signed it?

A I think it was Imgard Cruz.

Q If I showed you the statement, would that refresh your recollection?

A Oh, Yeung.

Q As a matter of fact, you signed it Imgard Yeung, isn't that correct?

A Yes.

Q This was on July 22, 1975; is that correct?

A Yes.

Q So you were using Mr. Yeung's name at that time?

A Yes.

THE COURT: Are you going to have much more cross?

MR. SPRIZZO: Maybe a few questions.

THE COURT: All right.

Q Did you testify on direct examination that when you went to Chu's office after your wedding, that Tracy was with you?

A When?

Q You went down to City Hall and you got married; is that correct?

A Yes.

Q Then after the wedding did you go a restaurant?

A After the wedding -- when I got married, right? -- after the wedding we took pictures -- no, we went to Gene's.

Q Directing your attention to when you went to Mr. Chu's office, was it your testimony on direct examination that Tracy went with you to Chu's office?

A No. Tracy was there. Tracy and Frances were there already when I went in.

Q When you went to Mr. Chu's office?

A Yes.

Q Were they there when you got your money?

A Yes.

Q You say you gave Tracy $200?

A $250.

Q $250? Was that done in Mr. Chu's office in Mr. Chu's presence?

A Yes.

Q Is that your testimony?

A Yes.

Q Do you recall telling Agent Hittelman on July 22, 1975 in the statement that we have been referring to:

"After the marriage ceremony Brian and I went to Gene Chu's office where Gene Chu gave me $1,500 In cash"?

MR. KINGHAM: Objection, your Honor. It is not inconsistent at all.

THE COURT: Yes, it is not.

MR. SPRIZZO: I think that's a question of argument, your Honor. We think it is.

THE COURT: In what way?

MR. SPRIZZO: She does not mention Tracy at all. We think that is an inconsistency.

THE COURT: I think it is not.

Objection sustained.

MR. KINGHAM: Thank you, your Honor.

Q Did you say anything at all to Agent Hittelman in this statement about Tracy going with you to Gene Chu's office?

MR. KINGHAM: Your Honor, I object. It is a mischaracterization of the testimony. She has never

testified that Tracy went with her to Gene Chu's office.

MR. SPRIZZO: She just testified that she gave her $250 --

MR. KINGHAM: She testified twice that Tracy was there when she got there.

THE COURT: Read the question again.

MR. SPRIZZO: I will rephrase the question.

Q Did you ever tell Agent Hittelman anything at all on July 22, 1975 about Tracy being in Gene Chu's office and getting $250 from you in Chu's presence?

A I don't remember.

Q Would you like to look at your statement?

A I don't remember everything I told him there.

THE COURT: Will you stipulate that it is not there, Mr. Kingham?

MR. KINGHAM: I don't see it there, your Honor. I will agree that it is not.

THE COURT: You need not look any further.

MR. SPRIZZO: Just a few more questions and we will be finished.

Q Are you presently employed?

A No.

Q Are you still on welfare?

A Yes.

Q When you spoke to Agent Hittelman, did he say anything to you at all when he interviewed you about -- that is if you did not cooperate, in words or in substance, that he would have your welfare file closed and have you taken off welfare?

A He told me that if I don't talk, that he could call up the welfare and they could just close it.

Q And you would then be deprived of welfare benefits for you and your son; is that correct?

A Yes.

MR. SPRIZZO: I have no further questions.

MR. CONCANNON: Your Honor, I have a couple of questions. I don't know whether you want to take a recess.

THE COURT: I leave that up to you.

MR. CONCANNON: It may be less than a couple of minutes.

Shall I begin?

THE COURT: All right, go ahead

CROSS EXAMINATION

BY MR. CONCANNON:

Q Miss Cruz, my name is Thomas Concannon. I represent Jean Fong.

I call your attention to a meeting that you had

in her apartment some time before Millie's wedding. About how long before Millie's wedding was that?

A I know that I was asked -- I don't know if I had asked -- about me getting into that getting married.

Q Excuse me. What I was trying to find out, I don't want to interrupt you, but what I was trying to find out is about how long before Millie's wedding this meeting took place.

A I don't know how long. I do not recall how long.

Q Did you introduce the topic of your marriage, of you getting married, to a Chinese man?

A I asked.

Q At that time I take it that Jean Fong indicated that you could get a man who would be a father to your child?

A Yes.

Q Legitimate?

A That would give my son a name and, you know --

Q Some dignity?

A Yes, and I had told her no. I told her --

Q You wanted to wait until after you had the baby?

A Yes. I wasn't -- at that time I didn't want to get into it because I was thinking about the welfare.

Q You are quite sure that Jean Fong did not say to you that you could not get married to a Chinese man because you are pregnant? She did not say that to you?

A All she said was --

Q Please, I appreciate the fact that you want to get some things out, but I am trying to get at something pretty specific.

Are you quite sure that she, "she" being Jean Fong, did not say to you that you could not get be married to a Chinese man because you were pregnant or this would not be a suitable approach for you?

A She said it would be easier for me --

Q Did she say it would be good for you and it would be good for your baby?

MR. KINGHAM: Objection, your Honor. Counsel is testifying.

MR. CONCANNON: Your Honor, I am asking a question.

THE COURT: This is an intended summary of something she said previously.

Did Jean Fong say that?

THE WITNESS: Jean Fong told me that I could get married, but --

Q All right, she did not --

THE COURT: Let her finish. You could get married, but -- what?

THE WITNESS: In a way she said I couldn't because I was pregnant, but then again she said that I could because being that I was pregnant it would be easier for me --

Q It would be a legitimate name for your child?

MR. KINGHAM: I object.

Can we have the witness testify?

THE COURT: Yes.

Did she or did she not say you cannot get married or should not get married because you are pregnant?

THE WITNESS: She told me -- she told me I could get married if I dropped the welfare and if the Chinese man would give me -- give my son his name and me, this way the kid would have a name, et cetera.

Q I take it, then, that the discussions were taking place in such a way so that she was trying to calculate what would be best for you?

MR. KINGHAM: I object, your Honor.

MR. CONCANNON: That's the question. I am entitled to ask -- I will withdraw it and rephrase the question.

THE COURT: No, you are asking her to do some mindreading.

Q I take it, Miss Cruz, that you discussed a number of possibilities?

No. 1, that possibly you couldn't get married because of your pregnancy, and, No. 2, that maybe it would be an especially good thing for someone in your situation, is that not correct?

My question is, did the conversation cover that range of topics?

THE COURT: I think she explained what Jean Fong said.

MR. CONCANNON: I have no further questions.

THE COURT: Mr. Barry?

MR. BARRY: I have no further questions, your Honor.

THE COURT: Any redirect?

MR. KINGHAM: Just one, dyour Honor.

REDIRECT EXAMINATION

BY MR. KINGHAM:

Q After you had spoken with Mr. Hittelman in July, 1975, were your welfare payments subsequently cut because you had been married and not reported it?

A Before?

Q After you spoke with Mr. Hittelman, after that, did you get a cut in your welfare payments?

A Yes, I did.

MR. KINGHAM: No further questions, your Honor.

THE COURT: Thank you very much.

MR. SPRIZZO: I just have one question.

RECROSS EXAMINATION

XX BY MR. SPRIZZO:

Q You are still receiving welfare payments, are you not?

A Yes, I do.

MR. KINGHAM: Nothing further, your Honor.

THE COURT: We will take a ten-minute break.

(Witness excused.)

(Recess.)

(In open court; jury present)

MR. KINGHAM: Your Honor, the government calls Yeung Yau Choi, or Brian Yeung.

Y E U N G Y A U C H O I , called as a witness by the government, being first duly sworn, testified through the interpreter as follows:

DIRECT EXAMINATION

BY MR. KINGHAM:

Q Mr. Yeung, answer me in English, if you understand me. Do you speak and understand English?

A I want to have translated into Chinese.

Q Do you understand and speak some English?

A Yes.

Q Would you be more comfortable testifying in Chinese through Mrs. Moy?

A Yes.

MR. KINGHAM: Your Honor, I request that Mrs. Moy be permitted to interpret.

THE COURT: She may.

Q Mr. Yeung, where were you born, sir?

A I was born in Hong Kong.

Q Are you a British subject?

A Yes.

Q When did you first arrive in the United States?

A At the end of April or the beginning of May in the year 1975.

Q How did you get here?

A I jumped ship.

Q Where?

A At a Brooklyn pier.

Q After you arrived in the United States did you get a job?

A Yes.

Q Where?

A In Connecticut, Cubbs Mill Inn.

Q Where was that in Connecticut?

A Westport, Western.

Q Did there come a time when you met a man named Gene Loy Chu?

A Yes.

Q Mr. Yeung, would you look out in the courtroom and tell me if you see Mr. Chu in the courtroom.

A He is sitting on the left, the third one.

MR. KINGHAM: Indicating the defendant Chu, your Honor.

THE COURT: The record may so reflect.

Q Mr. Yeung, when did you first meet Mr. Chu?

A At the end of December in the year 1973.

Q Where did you meet him?

A In his office.

Q Do you recall where that was?

A It was on Division Street.

Q Is that in Chinatown?

A In the vicinity.

Q Who was present in the office at the time you met Mr. Chu?

A I just went to see him.

Q Was anyone else there with you?

A The first time, no.

Q Did you have any conversation with Mr. Chu?

A Yes. I wanted to ask him whether I could apply for permanent residence here.

Q What did you say to him?

A I asked him, I told him that I was born in Hong Kong, can I apply for it.

Q What did he say?

A He said "If you are born in Hong Kong it can't be done."

Q Was there any further conversation?

A Then I asked him what other ways can I use to apply for permanent resident.

Q Did he say anything?

A Then I asked him, I said, "You have girls who would get married?"

Q What did he say to that?

A He didn't say anything.

Q Was there any further conversation at that time?

A And I said that I was introduced here by a frien

Q Did you give the friend's name?

A I did.

Q What was that?

A First I told him that it was Chong Wing who had a friend Mr. Lau, who was the one that introduced us.

Q Did he say anything?

A He didn't say anything.

Q How long did you stay in the office at that time?

A Approximately a very short time.

Q Before you left did he say anything else to you, if you recall?

A He said to look for a friend and then come back.

Q What did you do?

A Then I went to look for that friend.

Q Which friend?

A To look for the one that I know, Chong Wing.

Q Did there come a time when you returned to Mr. Chu's office?

A Yes.

Q When was that?

A After I had found the one, the last name Lau, then I went back to his office.

Q When was that in relation to the first time you went to his office?

A I cannot recall the exact date, but I think it was about two days, within two days I returned.

Q When you returned with Mr. Lau did you have a conversation in the lawyer's office?

A Yes.

Q Who was present at that conversation?

Mr. Lau and myself, and then Mr. Lau went out.

Q Did you have a conversation with the lawyer?

A Yes, I talked with the lawyer.

Q What was said?

A At that time he discussed with me about the price.

Q What did he say?

A He said the lawyer's fee will be $1500.

Q Did he say anything else?

A I have to pay the girl $3500.

Q What did you say?

A I told him that I could not pay the whole sum at one time, and I wanted to see other ways of paying it.

Q What did he say?

A He said I had to first pay the lawyer's fee and then half the price -- hald the sum of what I'm supposed to pay the girl.

Q What did you say to that?

A And he also said to pay the $500 for the lawyer's fee first. And the first time to pay $1500 to the girl, for the first time.

Q Do you recall any other conversation at that time between you?

A After the conversation about the price, he said that I have to wait for a week before he would ask the girl to come down.

Q Do you recall any other conversation at that time?

A We didn't discuss anything else.

Q Was there any conversation about the immigration service?

A He says to be very careful with this marriage, in case the immigration --

Q In case the immigration what?

A He said the immigration is conducting a very severe investigation, and I had to stay with that girl.

Q What did you say?

A And I told him that I would stay with her, and then he told me that this girl is working in a bank. He said that the girl is a very good girl, and the way he said it, he said he could handle this case.

Q Mr. Yeung, was there any conversation at the second meeting about the first meeting with Mr. Chu?

A I do not understand that.

Q At the second meeting with Mr. Chu, that you have just testified about, was there any conversation about what had taken place at the first meeting with him?

A Yes. He told me that the first time I didn't make any promise to you because I was afraid that you were sent by the -- somebody to investigate me.

Q What did you say?

A I told him no, I wasn't sent by anybody, I was sent by a friend who introduced me here.

Q After the second meeting in Mr. Chu's office, did there come a time when you went back to his office?

A Approximately about a week later. But I cannot recall the exact date. We had then the appointment to meet the girl.

Q Who was at the office when you went there a week later?

A Before I met the girl I was waiting outside. Then I entered his office and I saw a couple of people there.

Q Did you know at that time who those people were?

A At that time I didn't know their names, but later I found out that there were Tracy, Fran and the male's name, I do not know who themale's name was.

Q Was there anyone else there?

A Imgard with a child.

Q Did you have a conversation with the lawyer at that time?

A At that time, yes. When we were talking at that time, everybody had left the office except for myself, Imgard and the lawyer.

(Continued on next page)

Q Was the baby still there?

A Yes, the baby was there.

Q What was said among you, Imgard and the lawyer?

A He told me that this girl was the girl that he is going to introduce to me to get married.

Q What did you say?

A But I said she had a child, and in my heart I felt I didn't want to go through with this marriage.

Q What did Mr. Chu say?

A He told me that having that child will even help me in my matter.

Q What did you say to that?

A Then I decided, I told him that I would proceed. I decided to do it.

Q Was there any conversation about money at that time?

A Yes, we discussed about the money, the money that -- the same discussion we had on the second time when I met him.

Q Who spoke about the money?

A The lawyer?

Q What was said?

A He was talking about the price, and I guess he wanted to say for Imgard's benefit about the first time

paying her $1,500.

Q And was there any discussion about sex?

A Yes. He said I must not have intercourse with this girl.

Q What did you say?

A I said that's fine, I would not have it with her.

Q Did there come a time when you went to a doctor to have blood tests?

A Yes.

Q Do you remember when that was?

A I cannot recall the date, but I know it was after the meeting with the lawyer.

Q Did there come a time when you went to City Hall to register for marriage?

A Yes, I went.

Q Let me show you Government's Exhibit 46 in evidence.

Do you recognize that document?

A I filled in on this side and the other side was filled in Imgard.

Q Where did you fill that in? Where were you located?

A I wrote this in the registration place.

Q Who was with you when you did it?

A Imgard, myself and we were carrying the baby.

Q Was that on January 28, 1974?

A Yes, January 28.

Q After you filled this form out at City Hall, where did you go?

A After the registration, I went back to the lawyer's place and I gave him the money.

Q Who was with you when you did that?

A Imgard was also there.

Q How much money --

A And also Tracy and also Fran.

Q How much money did you give him?

A I gave him a total of $2000.

Q Cash or check?

A I gave him cash.

Q Did you get a receipt?

A No.

Q What happened at that time?

A I gave the total of $2000 to the attorney, and the attorney in turn gave $1,500 to Imgard.

Q Did you give her cash or a check?

A It is cash.

Q Did you say anything at that time?

A After the registration he told us to go and get married, and then he gave Imgard the $1500.

Q Were you married to Imgard the next day? That is January 29, 1972.

A Yes.

Q Where?

A At City Hall.

Q Who was present?

A A Margie, she is a witnes.

Q After the wedding ceremony, where did you go?

A At that time I went with her to have lunch. Before we have lunch, we went back to the lawyer's office again.

Q What happened at the lawyer's office?

A I gave him the certificate of marriage.

Q Following your wedding, did You move into Imgard's apartment?

A Yes.

Q Do you remember what day that was?

A It's between January 30 to January 31, within these two days I moved in.

Q After that, during February, 1974, where did you live?

A I was working in Connecticut, but I still

returned there to stay.

Q How often would you come down to stay in New York?

A Maybe twice in one week.

Q Where would you come to stay?

A I was staying at this girl's place at Valentine Avenue.

Q Was that in the Bronx?

A Yes, it is in the Bronx.

Q Let me show you what has been marked Government's Exhibit 42 for identification.

I ask you if you recognize that?

A This was the letter that was sent by the lawyer to notify me in order to go and see him.

Q Do you recall when you received that?

A I received it for a lont time and then I made a phone call to look for him.

MR. KINGHAM: Government's Exhibit 42 for identification is offered as Government's Exhibit 42 in evidence and is the subject of a stipulation.

MR. FLEMING: I have no objection.

(Government's Exhibit 42 was received in evidence.)

xx MR. KINGHAM: May I read from 42, your Honor?

THE COURT: You may.

(Mr. Kingham read from Government's Exhibit 42 in evidence to the jury.)

MR. CONCANNON: Subject to connection, your Honor?

THE COURT: Yes. This is being received subject to connection, subject also to the same instruction I have repeatedly given.

Q After receiving that letter and calling to set up an appointment, do you recall when it was that the appointment was set up for?

A We make the appointment so that it falls on my off day.

Q Do you recall the exact date?

A I cannot recall the exact date, but it can be approximately in the middle of March.

Q Let me show you what has been marked Government's Exhibit 3552 for identification and call your attention to this page.

Tell me if that refreshes your recollection as to the date that you went to the office?

A It is March 20.

Q What year?

A 1974.

Q Mr. Yeung, when you went to the office, who went with you?

A I went with Imgard.

Q Who was there?

A Just the lawyer, myself and Imgard.

Q Was there a conversation?

A I told him that I had received the letter from him and what he would like to discuss, and he told me that he wanted to find out whether both of us have learned each other and find the ways and the place where we were staying.

Q Was there any other conversation?

A He asked us to pay attention to a lot of things in case the Immigration might come to investigate.

Q Did you pay any money at that time?

A And also to pay particular attention to certain parts when they come to investigate.

Q Did you pay any money at that time?

A After I have received the letter and make an appointment to meet him, at that meeting I did not give him the money.

Q Did you pay him any money at any time after that?

A Yes.

Q When and how much?

A I have paid him twice. The first time I paid him $200 and he say that this is the money for introduction.

Q Was there any other conversation about that money?

A He said this $200 was to be paid to Jimmie, and I have never met him.

Q Were you arrested by the Immigration Service in April of 1974?

A Yes.

Q Where?

A In the restaurant in Connectcut.

Q At the time you were arrested, did you have occasion to speak with Mr. Chu?

A I called him from Norwalk Prison.

Q What did you say to each other?

A I asked him what shall I do now, and he said he is going to call Imgard first.

Q Was there any other conversation?

A I asked him, I said, "How come I am being arrested, even though I have been married," and I asked him whether he could bail me out.

Q What did he say?

A He said he would do his best to help me.

Q Did you subsequently get bailed out?

A My manager, he bailed me out.

Q Calling your attention to July, 1974, did you see Mr. Chu during that month?

A Yes.

Q Do you recall the exact date?

A No. I don't know. I cannot recall the exact date.

Q Let me show you again Government's Exhibit 3552 for identification and ask you to look at that and tell me if that refreshes your recollection as to the exact date you saw Mr. Chu in July?

A In July, 1974, on the 29th.

Q Where did you see him?

A In his office.

Q Who was present?

A Just he and myself.

Q Did you have a conversation?

A I asked him what am I supposed to do now that they are going to send me back to Hong Kong.

Q What did he say?

A He said he will go to the Immigration Court with me.

Q Did he say anything else?

A And he asked me to give him $500.

Q What did you do?

A He said that if I do not pay him the $500, he will not attend to any of my matter.

Q Did you pay him?

A Yes, I pay him the $500.

Q Did you go to the Immigration Court?

A Yes, he went with me.

Q Was your date for voluntary departure extended after that?

A Yes. They pushed that case onto the case concerning my marriage.

Q Calling your attention to September of 1974, Mr. Yeung, did you receive a notice from Immigration around that time?

A Yes, it asked me to go for an interview.

Q I show you Government's Exhibit 43 in evidence. Did you receive that or a copy of that document?

A Yes. I have received a notice like this calling me to go for an interview.

Q After you received that notice, Mr. Yeung, what did you do?

A I made a telephone call to the lawyer.

Q Did you make an appointment?

A Yes.

Q Do you recall when it was, do you recall the date that you went to see him?

A I cannot recall the exact date.

(Continued on next page.)

Q Let me show you again Government's Exhibit 3552, calling your attention to this.

Does that refresh your recollection as to the date that you went to the lawyer's office?

A October 16.

Q 1974?

A 1974.

Q Who went with you?

A I wer with Imgard; we went together.

Q Did you have a conversation with the lawyer at that time?

A Yes.

Q What was said?

A He asked us where we were standing, and to pay attention to the things in the house and other matters.

Q Was there any other conversation that you recall?

A He also asked us to tell him how I know Imgard, how do we know each other.

Q What did you say?

A At that time I had no idea, and then Imgard say that we could say we could met at a party.

Q What did the lawyer say?

A He thought for a little while and he said it's a

good idea.

Q Was that true, did you meet Imgard at a party?

A No, I did not meet her there.

Q Where did you meet her?

A I met her in the lawyer's office.

Q Following that meeting in Mr. Chu's office, do you recall when it was that you next saw him?

A Actually, when I received that letter, that notice, I was supposed to go for an interview with the Immigration, but on that day I did not go.

Q After that meeting that you just testified about, did you see the lawyer again?

A Yes, I went to see him.

Q Do you remember the date that you went to see him?

A Approximately when the second letter -- second notice from the Immigration arrived.

Q Do you recall the exact date?

A The exact date I cannot recall.

Q Let me show you again, if I may, Mr. Yeung, Government's Exhibit 3552 for identification.

I call your attention to that. Does that refresh your recollection as to the date you went to the

office?

A 1974 November 26.

Q I show you also what has been marked Government's Exhibit 44 for identification and ask you if you recognize that?

A This is the second letter asking me for the interview.

Q When you went to the lawyer's office after receiving the letter on November 26, 1974, who went with you?

A I went with Imgard.

Q Was there a conversation?

A The same way, he asked us questions.

Q Do you recall any specific conversation?

A And he asked us to pay attention to the way the house is, the things in the house, and also where we met and other things.

Q When did you next see the lawyer, Mr. Chu?

A After receiving the second notification, we still did not make it to Immigration.

Then the last time, then, that time, I cannot recall the exact date.

Q Let me show you this 3552.

Does this refresh your recollection as to the

date you went to his office the next time?

A In December the 4, 1974.

Q Who went with you on that occasion?

A Also with Imgard.

Q Was there a conversation at that time?

A Yes, the same thing. The same questions he asked us.

Q Did you go to Immigration on December 13, 1974?

A Yes, after the questions in his office, then we went to the Immigration.

Q Do you recall the exact date that you went to Immigration?

A That's the date on the notification, the date asking me to go. I do not know that date.

MR. KINGHAM: Government's Exhibit 44 for identification is offered as Government's 44, again subject to the stipulation.

MR. FLEMING: No objection.

(Government's Exhibit 44 was received in evidence.)

xx MR. KINGHAM: May I read from Government's 44, your Honor?

THE COURT: You may.

MR. KINGHAM: The stipulation is that this was

received back at the Immigration Service, the date and time stamped at the top, which is December 20, 1974, 2.20 p.m.

(Whereupon Mr. Kingham read Government's Exhibit 44 in evidence to the jury.)

xx Q Mr. Yeung, let me show you Government's Exhibit 45 for identification.

Would you look at that and tell me if that refreshes your recollection as to the date that you went to Immigration for an interview?

A This is January the 8th, 1975.

Q Before you went to Immigration that day where did you go?

A I went to the lawyer's place.

Q Who was with you?

A Imgard and the child.

Q Was there a conversation?

A Yes. He asked us the questions again to see if we understand.

Q Was anything else said that you recall?

A And he asked me again how I met Imgard, that's an important question.

Q What did you say?

A And I say to him, like the last time, we met in

a party.

Q Following that, did you go to the Immigration offices?

A Yes, we went.

Q Did Mr. Chu go with you?

A Yes, Mr. Chu with Imgard and the child, and we went together.

Q Were you interviewed separately or together, you and Imgard?

A A separate interview. And they asked me first.

Q Where was Mr. Chu while you were interviewed?

A e was sitting next to me.

Q Were you asked questions and did you give answers?

A Yes. They asked me the questions and I answered them.

Q Did you tell the truth?

A We have to say the truth to -- something about the marriage.

Q Did you tell the truth about the marriage at that time?

A Definitely I was afraid to say that it was a false marriage.

Q Were you asked how you had met?

MR. FLEMING: If your Honor please, can we have stricken and ask for a responsive answer?

THE COURT: Yes.

That answer will be stricken.

MR. KINGHAM: I will put the question again, your Honor.

THE COURT: The jury will disregard that answer.

Q Mr. Yeung, at your interview with Immigration when Mr. Chu was with you, did you tell the truth in answering the questions?

A I just give the answers that we have practiced, those answers I gave it to the Immigration.

Q Did you tell the truth?

A It's not the truth, but I just have to say we are really married, I have to tell them.

(Continued on next page.)

Q After your interview, Mr. Yeung, where did you go?

A We left together, we left the immigration together and Imgard and I, we went home. Before we returned home we went to the lawyer's office.

Q Was there a conversation at the lawyer's office?

A Yes, we talked about what we had just done, and he said he would inform us later.

Q Now, at that time in January of 1975 where were you working?

A At that time I wasn't working in Connecticut. I went to Swiss Center to work.

Q Where is that?

A It is at Rockefeller Center.

Q Where did you live when you were working at the Swiss Center?

A From January to July, 1975 I was staying at Valentine Avenue.

Q Did you stay anyplace else?

A And then I moved out and that was in August.

Q Mr. Yeung, did there come a time when you went back to work in Connecticut?

A Yes, that was the period I went back to work

there.

Q Do you remember when that was?

A After the marriage, then I went back to work.

Q Were you working there during the summer of 1975?

A In the summer of 1975 I returned to Swiss Center to work there.

Q Calling your attention to August of 1975, did you see Mr. Chu during that month?

A Yes, I met him, I met him in a restaurant.

Q What restaurant?

A In connecticut, Cubbs Mill.

Q Is that the Cubbs Mill Inn?

A Yes.

Q Were you working there at that time?

A Yes. I was working there.

Q Will you describe the circumstances under which you saw Mr. Chu?

A That night it was very late, and it was one of the busiest days we have, and it was almost close to closing time.

Q Where were you?

A I was working in the kitchen.

Q What happened?

A And a person who called herself Mrs. Lee, she came in to look for me.

Q Did you go with Mrs. Lee?

A First I didn't go with her because I didn't know who she was. And she told me that she was sent by the attorney.

Q Did you go with her then?

A She told me to go and change and she will wait for me at the bar.

Q And did you meet her?

A After I changed I met this Mrs. Lee at the bar. She was waiting for me.

Q What did you do then?

A And at that time when I met her she was having a drink. She saw me and she left. She came with somebody else.

Q Did you go with her?

A Yes, the other person who I didn't know, I went up to his car.

Q Where did you go?

A She told me that the lawyer was waiting at a parking lot.

Q Did you go with her?

A I went with her and when I entered the car I

didn't see the lawyer. Actually, the lawyer was in front of the car.

Q Was he in another car?

A He was sitting inthe car in front.

Q Did there come a time when you spoke with the lawyer?

A Yes. Our car followed the lawyer's car and we drove along to the post office.

Q How long was the drive?

A Approximately about ten minutes.

Q What happened at the post office?

A And at that time the other friend had left and Mrs. Lee was sitting inthe car and I was talking with the attorney Chu outside the car.

Q What did you say to each other?

A He told me that now the matter is very serious and that Frances -- that Tracy and Fran were trying to blackmail him.

Q Did he say anything else?

A And he told me that they blackmailed him for $10,000 and he would not pay any money to them and that -- in that case it might affect my case. He asked me to be careful, that the immigration might check on me. Then he wanted me to go home to spend the night there.

Q Do you recall any other conversation?

A And he said it would be best if I could go home more often in case the immigration might investigate me.

Q Did he say anything else?

MR. FLEMING: I object to this, your Honor. This is the fourth time he said "Did he say anything else?"

THE COURT: Overruled.

A A lot of things concerning about the immigration checking on us, he talked.

Q What did he say?

A He said if the immigration comes to check on us, that we must admit that this is the true marriage.

Q After your conversation with Mr. Chu at the post office, where did you go?

A Then he drove me home and close to Valentine Avenue he let me off.

Q Mr. Yeung, after your marriage to Imgart did you pay her any money?

A Yes. I paid her $200 every month.

Q Did you pay -- I'm sorry. How much did you pay her in all, if you recall?

A Every month I paid Imgart the $200 in

order to pay up the $3500. The money was not for the lawyer.

Q Do you know how much you paid Imgart in total?

A Yes, I paid him a total sum of $3500, and then I paid her something else because she wanted to borrow it from me, because she never repaid me.

Q Now, Mr. Yeung, are you presently pending deportation proceedings for voluntary departure?

A Yes. I was going to voluntarily depart.

Q Has your voluntary departure date been extended until June, 1976?

A Yes, I know that.

Q Have any promises been made to you by the immigration service or the United States Government as to what will happen with respect to your voluntary departure?

A No, they didn't promise anything.

Q Have any promises been made to you in connection with your testimony in this case?

A No. I just wanted to tell everything that's been on my mind. After I have told everything I feel much better.

Q Have you been told that you will not be prosecuted in connection with this case?

A Yes.

Q But that you may be prosecuted if you tell lies under oath?

A Yes, I know.

MR. KINGHAM: Thank you, your Honor, for bearing with me. I have no furtehr questions.

THE COURT: We will take our noon break now and come back at 2 o'clock.

(Luncheon recess)